





606009

B I L L S,

PUBLIC:

SIX VOLUMES.

— (2.) —

COMMON LAW COURTS (IRELAND)
TO
EXPIRING LAWS CONTINUANCE.

Session

5 February — 21 August 1867.

VOL. II.

1867.



Digitized by the Internet Archive
in 2026

B I L L S :

1867.

SIX VOLUMES:—CONTENTS OF THE

SECOND VOLUME.

N.B.—*THE* Figures at the beginning of the line, correspond with the N° at the foot of each Bill; and the Figures at the end of the line, refer to the MS. Paging of the Volumes arranged for *The House of Commons*.

Common Law Courts (Ireland):

- ✓ 48. Bill to amend the Pleading, Practice, and Procedure of the Courts of Common Law in Ireland - - - - - p. 1

Commons Inclosure Act Amendment:

- ✓ 151. Bill to amend the Forty-ninth and Ninety-third Sections of the Commons Inclosure Act of the Eighth and Ninth Victoria, Chapter One hundred and eighteen - - - - - 135

Companies Act (1862) Amendment:

- ✓ 221. Bill to amend "The Companies Act, 1862" - - - - - 139
✓ 304. Same [as amended in Committee] - - - - - 155

Consecration and Ordination Fees [H.L.]:

- ✓ 256. Bill, intituled, An Act for the Establishment of a Table of Fees to be taken on the Consecration of Churches, Chapels, and Burial Grounds, and on the Ordination of Deacons and Priests - - - - - 169

Consecration of Churches and Churchyards [H.L.]:

- ✓ 276. Bill, intituled, An Act relating to the Consecration of Churches and Churchyards - - - - - 173

Contagious Diseases (Animals) [H.L.]:

- ✓ 196. Bill, intituled, An Act to continue and amend the Acts relating to Contagious or Infectious Diseases among Cattle and other Animals - - - - - 179
✓ 228. Same [as amended in Committee] - - - - - 191

Corrupt Practices at Elections:

- ✓ 119. Bill to provide for the more effectual Prevention of Corrupt Practices and Undue Influence at Parliamentary Elections - - - - - 211

Counsel to the Secretary of State for India:

- ✓ 51. Bill to enable the Standing Counsel to the Secretary of State in Council of India to sit in the House of Commons - - - - - 233

County Courts Acts Amendment [H.L.]:

- ✓ 212. Bill, intituled, An Act to amend the Acts relating to the Jurisdiction of the County Courts - - - - - 237

County General Assessment (Scotland):

- ✓ 225. Bill to abolish the Power of levying the Assessment known as "Rogue Money," and in lieu thereof to confer on the Commissioners of Supply of Counties in Scotland the Power of levying a "County General Assessment" - p. 253
- ✓ 270. Same [as amended in Committee] - - - - - 259

County Treasurers (Ireland):

- ✓ 91. Bill to amend the Law relating to the Office of County Treasurer in Ireland, 265
- ✓ 159. Same [as amended in Committee] - - - - - 275

Court of Appeal, Chancery (Despatch of Business) [H. L.]:

- ✓ 254. Bill, intituled, An Act to make further Provision for the Despatch of Business in the Court of Appeal in Chancery - - - - - 283

Court of Chancery (Ireland):

- ✓ 47. Bill to amend the Constitution, Practice, and Procedure of the Court of Chancery in Ireland - - - - - 287
- ✓ 180. Same [as amended in Committee] - - - - - 359

Court of Chancery (Officers) [H. L.]:

- ✓ 235. Bill, intituled, An Act to facilitate the Transaction of Business in the Chambers of the Judges of the High Court of Chancery, and in the Offices of the Registrars and Accountant General of the said Court - - - - - 431

Courts of Law Fees, &c.:

- ✓ 287. Bill for the Application of surplus Fees paid by Suitors in the Superior Courts of Law and other Courts towards the Expenses of providing the intended Courts of Justice; and for other Purposes - - - - - 439

Courts of Law Officers (Ireland):

- ✓ 145. Bill to alter and regulate the Official Establishment of the High Court of Chancery and of the Superior Courts of Common Law in Ireland - - - - - 447
- ✓ 178. Same [as amended in Committee] - - - - - 465
- ✓ 248. Same [as amended in Committee and on Re-commitment] - - - - - 483
- ✓ 309. Lords' Amendments to the Courts of Law Officers (Ireland) Bill - - - - - 505

Courts of Law, &c., Salaries and Expenses:

- not printed } 282. Bill to remove certain Charges from the Consolidated Fund (not printed) - 507

Courts of Referees:

- ✓ 311. Bill to enable the Courts of Referees to administer Oaths and award Costs in certain Cases, in the same Manner as Committees on Private Bills - 509

Criminal Law:

- ✓ 8. Bill to remove some Defects in the Administration of the Criminal Law - 513

Criminal Lunatics:

- ✓ 41. Bill to amend the Law relating to Criminal Lunatics - - - - - 519
67. Same [as amended in Committee] - - - - - 523

Customs and Inland Revenue:

- ✓ 113. Bill to grant and alter certain Duties of Customs and Inland Revenue, and for other Purposes relating thereto - - - - - 527

Customs Duties (Isle of Man):

- ✓ 253. Bill to alter certain Duties of Customs in the Isle of Man - - - - - 539

Customs Revenue :

238. Bill to alter certain Duties, and to amend the Laws relating to the Customs, p. 543

District Lunatic Asylums Officers (Ireland):

242. Bill to provide for the Appointment of the Officers and Servants of District Lunatic Asylums in Ireland, and to alter and amend the Law relating to the Custody of dangerous Lunatics and dangerous Idiots in Ireland - - 553
- ✓ 269. Same [as amended in Committee] - - - - - 559

District Prothonotaries, Court of Common Pleas, County Palatine of Lancaster, Bill [H. L.] :

- ✓ 241. Bill, intituled, An Act to authorize the Appointment of District Prothonotaries of the Court of Common Pleas of the County Palatine of Lancaster, and to provide for the better Despatch of Business therein - - - - - 565

Dogs Regulation (Ireland) Act (1865) Amendment :

184. Bill to amend the Act of the Twenty-eighth and Twenty-ninth Victoria, Chapter Fifty, for regulating the keeping of Dogs, and for the Protection of Sheep and other Property from Dogs, in Ireland - - - - - 575
315. Lords' Amendments to the Dogs Regulation (Ireland) Act (1865) Amendment Bill - - - - - 579

Dominica Loan :

291. Bill to authorize an Alteration in the mode of Repayment of a Loan made by the West India Relief Commissioners to the Island of Dominica - - - 581

Drainage and Improvement of Lands (Ireland) Supplemental :

199. Bill to confirm a Provisional Order under "The Drainage and Improvement of Lands (Ireland) Act, 1863," and the Acts amending the same - - 585

Dublin Metropolitan Police :

246. Bill to amend the Laws regulating the Superannuation Allowances of the Dublin Metropolitan Police - - - - - 591

Dublin University Professorships :

10. Bill to open the Professorships of Anatomy and Chirurgery, Chemistry and Botany, in the University of Dublin, to all Persons irrespective of their religious Creed - - - - - 595
59. Same [as amended in Committee] - - - - - 599

Dundee Provisional Orders Confirmation :

- ✓ 257. Bill to confirm certain Provisional Orders under "The General Police and Improvement (Scotland) Act, 1862," relating to the Burgh of Dundee - 603

Duty on Dogs :

36. Bill to repeal the Duties of Assessed Taxes on Dogs, and to impose in lieu thereof a Duty of Excise - - - - - 609

Ecclesiastical Titles Act Repeal :

84. Bill to repeal the Act of the Fourteenth and Fifteenth Victoria, Chapter Sixty, intituled, "An Act to prevent the Assumption of certain Ecclesiastical Titles in respect of Places in the United Kingdom" - - - - - 615

Edinburgh Provisional Order Confirmation :

205. Bill to confirm a Provisional Order under the General Police and Improvement (Scotland) Act, 1862, relating to the City of Edinburgh - - - 619

Education of the Poor :

111. Bill to provide for the Education of the Poorer Classes in England and Wales - - - - - p. 683

Execution of Deeds :

26. Bill to simplify and lessen the Expense of the Execution of Deeds by married Women, and to amend the Law as regards the Effect of Deeds executed under Powers of Attorney - - - - - 721
138. Same [as amended in Committee] - - - - - 727

Expiring Laws Continuance :

288. Bill to continue various Expiring Laws - - - - - 733

Common Law Courts (Ireland) Bill.

ARRANGEMENT OF CLAUSES.

Clause.

1. Commencement of Act.

Writ for Commencement of Actions.

2. Personal Actions, when Defendant resides within the Jurisdiction, to be commenced by Writ of Summons in Form No. 1. of Schedule (A.)
3. Writs for Commencement of Actions to be issued in rotation for the several Courts. No Objection on Ground of Privilege to be valid.
4. No Form or Cause of Action to be mentioned in Writ.
5. Writ to state Names of all Defendants, and for only One Action.
6. Writ to be dated on Day of issuing, and tested in Name of Superior Courts of Law.
7. Writ to be endorsed with Name and Abode of Attorney, or a Memorandum that Writ has been sued by Plaintiff in Person.
8. Attorney on Demand to declare whether Writ issued by his Authority, and to declare Name and Abode of his Client, if ordered. If Writ issued without Authority of Attorney, Proceedings to be stayed.
9. Endorsement of Debt and Costs on Writ and Copy of Writ for a Debt, with Notice that Proceedings will be stayed on Payment within Four Days.
10. Concurrent Writs may be issued.
11. Renewal of Writs of Summons to save the Statute of Limitation, and for other Purposes.
12. Production of renewed Writ, Evidence of Commencement of Action.
13. Writ may be served in any County.
14. Endorsement of Service to be made.
15. As to Service of Writ on Corporations and Inhabitants of Baronies and Towns.

[Bill 48.]

a

16. Proceedings

Clause.

16. Proceedings where Personal Service cannot be effected, but Defendant knows of the Writ and evades Service.
17. As to Actions against British Subjects residing out of the Jurisdiction of Superior Courts.
18. As to Actions against Foreigners residing out of the Jurisdiction of Superior Courts.
19. Courts may direct Substitution of Service.
20. Omission to insert or endorse Matters in or on Writ not to nullify it.
21. Substitution by Mistake or Inadvertence of One Form of Writ for another may be amended without Costs.
22. Writs for Service within and without Jurisdiction may be concurrent, and vice versâ.
23. Special Endorsement of the Particulars of Debts or liquidated Demands may be made on the Writ. Special Endorsement to stand for Particulars of Demand.

Appearance and Proceedings in default of Appearance.

24. Final Judgment upon Writs specially endorsed in default of Appearance.
25. Judgment for Nonappearance where the Writ is not endorsed in special Form.
26. Appearance to be entered at any Time before Judgment.
27. Appearance by the Defendant in Person to give an Address at which Proceedings may be served.
28. Mode of Appearance to Writ of Summons.
29. Proceedings mentioned in Writ or Notice may be had and taken.
30. Proceedings where only some of the Defendants appear to a Writ specially endorsed.

Joinder of Parties.

31. Joinder as Plaintiffs of all Persons supposed to be legally entitled.
32. Defendant to have Benefit of Set-off, though some Plaintiffs improperly joined.
33. No other Action for same Claim to be brought.
34. Nonjoinder and Misjoinder of Plaintiffs may be amended before Trial.
35. Nonjoinder and Misjoinder of Plaintiffs may be amended at the Trial as in Cases of Amendments of Variances under 3 & 4 Vict. c. 105. s. 45.
36. Upon

Clause.

36. Upon Notice of Plea of Nonjoinder of Plaintiffs, Proceedings may be amended.
37. Misjoinder of Defendants may be amended before or at Trial.
38. Proceeding when Nonjoinder of Defendant objected to.
39. Upon Plea in Abatement for Nonjoinder of Defendants, Proceedings may be amended.
40. Provision in the Case of subsequent Proceedings against the Persons named in a Plea in Abatement for Nonjoinder of Defendants.
41. Joinder of Claims by Husband and Wife, with Claims in right of Husband.

Joinder in Causes of Action.

42. Different Causes of Action may be joined, but separate Trials may be ordered.

Questions by Consent without Pleading.

43. Questions of Fact may, after Writ issued by Consent and Leave of a Judge, be raised without Pleadings.
44. Agreement may be entered into for the Payment of Money and Costs according to the Result of the Issue.
45. Judgment to be entered according to the Agreement, and Execution issued forthwith, unless stayed.
46. Proceedings upon Issue may be recorded.
47. Judge may, by Consent, try Questions of Fact.
48. Questions of Law may be raised after Writ issued by Consent, &c., without Pleading.
49. Agreement as to Payment of Money and Costs according to Judgment upon Special Case.
50. Costs to follow the Event, unless otherwise agreed.

Pleadings in general.

51. Fictitious and needless Averments not to be made.
52. Judgment upon Demurrer to be given according to the very Right of the Cause.
53. Objections by way of special Demurrer.
54. Pleadings framed to embarrass may be struck out or amended.
55. Four Days Notice to declare, reply, or rejoin.
56. Pleadings to be dated and entered as of Time of pleading, unless Order to the contrary.
57. Profert and Oyer not necessary.

[48.]

a 2

58. Document

Clause.

58. Document may be set forth, and be considered a Part of the Pleading in which it is set forth.
59. Declaration for Libel or Slander.
60. Performance of Conditions precedent may be averred generally.
61. The Process of Adjudication of an inferior Jurisdiction may be pleaded generally.

Declaration.

62. Plaintiff to declare within a Year.
63. Actions against Justices of the Peace, Mayors, &c., to be laid in the County in which the Cause of Action has arisen.
64. Court or Judge may direct such Actions to be tried elsewhere.
65. Court or Judge may, in transitory Actions, order Venue to be changed.
66. Forms of Commencement, &c. of Declaration.
67. Several Counts on the same Cause of Action not to be allowed.
68. Commencement of Declaration after Plea of Nonjoinder.
69. Further Particulars.

Pleadings.

70. Rules to plead, and demand of Plea, not necessary.
71. Time for pleading, where Defendant is within Jurisdiction, to be Eight Days.
72. Express Colour and special Traverses not necessary.
73. Formal Commencement and Prayer of Judgment unnecessary.
74. Commencement of Plea.
75. Character of Assignees of Bankrupt, &c. to be taken as admitted, if not denied.
76. Effect of Plea of Non assumpsit in Actions on Simple Contract.
77. Pleas of Non assumpsit and Never indebted not to be allowed in Actions on Bills of Exchange and Promissory Notes.
78. Effect of Plea of Non est factum.
79. Plea of Nil debet not to be allowed.
80. Defences by way of Confession and Avoidance to be specially pleaded in Actions upon Contract.
81. Payment not to be given in Evidence in reduction of Amount without Plea.
82. Effect of Plea of Non detinet.
83. Effect of Plea of Not Guilty in Actions of Wrong.
84. General Issue may be pleaded in certain Actions.
85. In Actions of Wrong, Defences in Confession and Avoidance to be specially pleaded.

86. Effect

Clause.

86. Effect of Plea of Not Guilty in Actions of Trespass.
87. Effect of Plea of Not Guilty in Actions for taking Goods.
88. Set-off.
89. Plea of Matter subsequent to Action.
90. Plea Puis darrein continuance, when and how to be pleaded.
91. Payment into Court.
92. Payment into Court in Actions on Money Bonds, and for Detainer.
93. Payment into Court how pleaded.
94. Payment of Money into Court.
95. Proceeding by Plaintiff after Payment into Court.
96. Pleas to Actions partaking both of Breach of Contract and Wrong.
97. Payment, Set-off, and other Pleadings which can be construed distributively, shall be so construed.
98. Traverse of the Declaration.
99. Traverse of Plea or subsequent Pleading of Defendant.
100. Traverse of Replication or subsequent Pleading of the Plaintiff.
101. Equitable Defence may be pleaded.
102. Equitable Defence after Judgment.
103. Equitable Replication.
104. Court or Judge may strike out equitable Plea or Replication.
105. Actions on lost Instruments.
106. Joinder of Issue.
107. As to pleading and demurring together.
108. Several Matters may be pleaded at any Stage of the Pleadings.
109. Objections to Pleadings to be heard on Application to plead several Matters.
110. Certain Pleas may be pleaded together without Leave.
111. For pleading several Matters without Leave, Judgment may be signed.
112. One new Assignment only allowed in respect of the same Cause of Action.
113. Pleas not to be repeated.
114. Form of Demurrer and Joinder in Demurrer.
115. Time for pleading after Amendment.
116. Pleadings subsequent to the Declaration not to be filed.

Examples of Pleading.

117. Forms in Schedule may be adopted.

[48.]

a 3

Judgment

Judgment by Default, and ascertaining Amount to be recovered.

Clause.

- 118. Rule to compute unnecessary.
- 119. Inquiry of Damages may be directed to take place before the Master.
- 120. Ordinary Writ of Inquiry in other Cases.
- 121. Inquiries may be directed to take place before Master of the Court. Inquiries may be directed to take place before a Judge.

Discovery.

- 122. Affidavits on new Matter.
- 123. Power to Court or Judge to direct oral Examination of Witnesses.
- 124. Proceedings before and upon such Examination.
- 125. Examination of Person who refuses to make an Affidavit.
- 126. Proceedings upon Order for Examination.
- 127. Discovery of Documents.
- 128. Power to deliver written Interrogatories to opposite Party.
- 129. Affidavits by Party proposing to interrogate, and his Attorney.
- 130. Oral Examination of Parties, when to be allowed.
- 131. Proceedings upon such Rule or Order.
- 132. Depositions upon such Examinations to be returned to Master's Office.
- 133. Examiner may make Report to the Court.
- 134. Costs of Rule and Examination to be in the Discretion of the Court.

Mandamus and Injunction.

- 135. Action for Mandamus to enforce the Performance of Duties.
- 136. Declaration in Action for Mandamus.
- 137. Proceedings upon Claim for Mandamus.
- 138. Judgment and Execution.
- 139. Form of peremptory Writ.
- 140. Effect of Writ of Mandamus, and Proceedings to enforce it.
- 141. The Court may order the Act to be done at the Expense of the Defendant.
- 142. Prerogative Writ of Mandamus preserved.
- 143. Proceedings for Prerogative Writ of Mandamus.

144. Pro-

Clause.

144. Proceedings on Prerogative Writ of Mandamus.
145. Specific Delivery of Chattels.
146. Claim of Writ of Injunction.
147. Form of Writ of Summons and Indorsement thereon.
148. Form of Proceedings and of Judgment.
149. Writ of Injunction may be applied for at any Stage of the Cause.
150. Costs of Writs of Mandamus and Injunction may be included in Writs.

Notice of Trial, Inquiry, and Countermand.

151. Time for Notice of Trial and Inquiry.
152. Notice of Countermand.
153. Costs of the Day.
154. Proceeding where Plaintiff neglects to bring on the Cause to be tried.

Nisi Prius Record.

155. Nisi Prius Record not to be sealed or passed.

Juries and Jury Process.

156. Courts or a Judge to issue Precept to summon Jurors.
157. Panel of Jury to be annexed to Nisi Prius Record.
158. Mode of obtaining a Special Jury.
159. Remedy for Delay by Notice of Trial by Special Jury.
160. Notice to Sheriff of Trial by Special Jury.
161. If Special Jury not summoned, Cause to be tried by a Common Jury.
162. Court or Judge may provide for View out of the County, or County of City in which Action is to be tried.
163. Inspection by Jury of Parties or Witnesses.
164. Rule or Order for summoning Jury.
165. Defendant's Right to try, upon Default of the Plaintiff, preserved.
166. Two Judges may sit at same Time for Trial of Causes pending in the same Court.

[48.]

a 4

[167. Power

Clause.

167. Power to the Court or Judge in certain Cases to direct Trial to take place before Chairman or Recorder.

Arbitration.

168. Power to Court or Judge to direct Arbitration before Trial.
 169. Special Case may be stated, and Question of Fact tried.
 170. Arbitrator may state Special Case.
 171. Power to Judge to direct Arbitration at Time of Trial, when Issues of Fact left to his Decision.
 172. Proceedings before and Power of such Arbitrator.
 173. Power to send back to Arbitrator.
 174. Application to set aside the Award.
 175. Enforcing of Awards within Period for setting them aside.
 176. If Action commenced by One Party after all have agreed to Arbitration, the Court or Judge may stay Proceedings.
 177. On Failure of Parties or Arbitrators, Court or Judge may appoint single Arbitrator or Umpire.
 178. When Reference is to Two Arbitrators, and One Party fail to appoint, other Party may appoint Arbitrator to act alone.
 179. Two Arbitrators may appoint Umpire.
 180. Award to be made in Three Months, unless Parties or Court enlarge Time.
 181. Rule to deliver Possession of Land pursuant to Award to be enforced as a Judgment in Ejectment.
 182. Agreement or Submission in Writing may be made Rule of Court, unless a contrary Intention appear.

Admission of Documents, Proceedings at Trial and Evidence.

183. Admission of Documents.
 184. Proof of Admissions.
 185. Proof of Notice to produce.
 186. Speeches to the Jury.
 187. Power to adjourn Trial.
 188. Affirmation instead of Oath in certain Cases.
 189. Persons making a false Affirmation to be subject to the same Punishment as for Perjury.
 190. How far a Party may discredit his own Witness.
 191. Proof of contradictory Statements of adverse Witness.
 192. Cross-

Clause.

192. Cross-examination as to previous Statements in Writing.
193. Proof of previous Conviction of a Witness may be given.
194. Attesting Witness need not be called except in certain Cases.
195. Comparison of disputed Writing.
196. Provision for stamping Documents at the Trial.
197. Officer of the Court to receive the Duty and Penalty.
198. Secondary Evidence may be given of lost Documents where Original unstamped.
199. The last Two preceding Sections not to apply where Document cannot be stamped after Execution.
200. No Document under this Act to require a Stamp.
201. No new Trial for ruling as to Stamp.

Bills of Exceptions.

202. Form of Bill of Exceptions.

Judgments.

203. Judgment not to be arrested on technical Grounds.
204. Entry of Judgment on the Roll unnecessary for Execution.
205. Judgment for Money Demands without Distinction between Debt and Damages.

Execution.

206. Execution after Trial.
207. Ground Writs not necessary.
208. Expenses of Execution.
209. Writs of Execution to remain in force for One Year, and to be renewed if necessary.
210. Production of renewed Writ Evidence of Renewal.
211. Sheriff or Gaoler may discharge Prisoner by Authority of Attorney in the Cause.
212. Proceedings for charging in Execution a Person already in Prison of the Court.
213. Sheriff empowered to seize Money, Bank Notes, &c., and to pay Money or Bank Notes to Execution Creditor.
214. Attachment of Government and public Stock and Shares.
215. Order in respect of Money in Name of Accountant General.
216. Order of Court or Judge to be made in the first instance ex parte, and Notice to Bank or Company to operate as a Distringas.

[48.]

b

217. Execution

Clause.

- 217. Execution against beneficed Clergymen.
- 218. Return of Devastavit not to be made but on Finding of Jury.
- 219. Examination of Judgment Debtor as to Debts due to him.
- 220. Judge may order an Attachment of Debts.
- 221. Order for Attachment to bind Debts.
- 222. Proceedings to levy Amount due from Garnishee to Judgment Debtor.
- 223. Judge may allow Judgment Creditor to sue Garnishee.
- 224. Garnishee discharged.
- 225. Attachment Book to be kept by the Masters of each Court.
- 226. Costs of Application.
- 227. Judge may refuse to interfere in Proceedings to attach Debts.
- 228. Proceedings when Third Person has a Lien on the Debt.
- 229. Judge may bar Claim of Third Person, and make Orders.
- 230. Mode of enforcing Writs of Injunction against Corporations.

Assignment of Breaches.

- 231. Assignment of Breaches on penal Covenant.
- 232. Damages on Breaches to be ascertained.
- 233. Suggestion of further Breaches and Execution on same.

Proceedings to revive.

- 234. Execution in Six Years without Revival.
- 235. Judgment to be revived by Writ or with Leave of Court or Judge by Suggestion.
- 236. Proceedings upon Application for Suggestion to revive Judgment.
- 237. Plea of Payment of Judgment.
- 238. Writ of Revivor, and Proceedings thereon.
- 239. Writs of Scire facias in other Cases to be tested, directed, and proceeded upon in like Manner.
- 240. Appearance to Writ of Revivor.
- 241. As to Issue of Writ of Revivor upon Judgment more than Ten Years old.

Satisfaction of Judgments.

- 242. Satisfaction of Judgments by Party.
- 243. Court may order Satisfaction to be entered on Judgment fully paid.

Death,

Death, Marriage, and Bankruptcy.

Clause.

- 244. Action not to abate by Death.
- 245. Proceedings in case of Death of One or more of several Plaintiffs or Defendants.
- 246. Proceeding in case of Death of sole Plaintiff.
- 247. Proceeding upon Death of sole or sole surviving Defendant.
- 248. Death between Verdict and Judgment.
- 249. Proceedings in case of Death after Interlocutory and before Final Judgment.
- 250. To compel Continuance or Abandonment of Action in case of Death.
- 251. Marriage not to abate Action.
- 252. Bankruptcy and Insolvency of Plaintiff, when not to abate Action.

Arrest of Judgment and Judgment Non obstante veredicto.

- 253. Upon Motion in Arrest of Judgment, or for Judgment Non obstante veredicto, omitted Facts may by Leave of the the Court be suggested.
- 254. Judgment to follow Result of Suggestion.
- 255. Cost of abortive Issues.

Error and Appeal.

- 256. Error to be brought within Six Years.
- 257. Error may be brought by legal Representative of a deceased Party.
- 258. Proviso for Disabilities.
- 259. Writ of Error not necessary.
- 260. Error in Law how brought.
- 261. Error not Supersedeas till Service of the Copy of the Note and Grounds of Error.
- 262. Bail in Error.
- 263. Suggestion instead of Assignment of, and Joinder in Error.
- 264. Roll to be made up and Suggestion entered by Plaintiff in Error.
- 265. Error brought by One of several Persons against whom Judgment has been given.
- 266. Judgment Roll to be brought into Court instead of Transcript.
- 267. Jurisdiction of Courts of Error over the Proceedings.
- 268. Court of Error to have like Power with Court below.

Clause.

- 269. Proceedings in Error in Fact.
- 270. Plaintiff may discontinue Proceedings in Error.
- 271. Defendant may confess Error, and consent to Reversal of Judgment.
- 272. Death of Plaintiff in Error no Abatement.
- 273. Providing for Death of One of several Plaintiffs in Error.
- 274. Proceedings upon Death of sole Plaintiff or of all the Plaintiffs in Error.
- 275. Death of Defendant in Error no Abatement.
- 276. Proceedings upon Death of One of several Defendants in Error.
- 277. Proceedings upon Death of sole Defendant or of all the Defendants in Error.
- 278. Marriage not to abate Proceedings in Error.
- 279. Grounds to be stated in Rule Nisi for new Trial.
- 280. If Rule Nisi refused, Party may appeal.
- 281. Appeal upon Rule discharged or absolute.
- 282. Courts of Error to be Courts of Appeal.
- 283. Notice of Appeal.
- 284. Bail.
- 285. Form of Appeal.
- 286. Rule Nisi granted on Appeal, how disposed of.
- 287. Judgment of Court of Appeal.
- 288. Powers of Court of Appeal as to Costs and otherwise.
- 289. Error upon Award of Trial de novo.
- 290. Payment of Costs upon new Trial on Matter of Fact.

Interpleader.

- 291. Interpleader may be granted though Titles have not a common Origin.
- 292. Court or Judge may direct Sale of Goods seized in Execution.
- 293. Power to Court or Judge to decide summarily in certain Cases.
- 294. Special Case may be stated where Facts undisputed.
- 295. Judgment and Decision when to be final.
- 296. General Provisions to apply to Interpleader.
- 297. Rules, Orders, &c. made in Interpleader Proceedings may be entered of Record and made Evidence.

Summary

Summary Procedure upon Bills of Exchange and Promissory Notes.

Clause.

298. Actions upon Bills of Exchange, &c., may in certain Cases be commenced by Writ of Summons as Form in Schedule A. Plaintiff, on filing Affidavit of personal Service, may at once sign Final Judgment as Form in Schedule A.
299. Defendant showing a Defence upon the Merits to have Leave to appear.
300. Judge may under special Circumstances set aside Judgment.
301. Judge may order Bill to be deposited with Officer of Court in certain Cases.
302. Remedy for the Recovery of Expenses of noting Non-acceptance of dishonoured Bill.
303. Holder of Bill of Exchange may issue One Summons against all or any of the Parties to the Bill.

Ejectment.

304. Ejectment to be commenced by Writ of Summons.
305. Form and Duration of Writ of Ejectment.
306. Summons of Ejectment for Nonpayment of Rent upon whom to be served.
307. Service of Writ of Ejectment.
308. Appearance of Persons named in the Writ.
309. Appearance of Persons not named.
310. Appearance and Defence by Landlord.
311. Notice to defend for Part only.
312. Want of Certainty cured by Particulars.
313. Defence by Persons not in Possession.
314. Judgment for Default of Appearance or Defence.
315. Issue how made up.
316. Special Case may be stated.
317. Trial of Issue.
318. Verdict when Title appears to have expired before Trial.
319. Trial may be ordered to take place in any County.
320. Nonappearance at Trial.
321. Mesne Rates may be recovered by Ejectment to the Day of Trial.
322. Ascertainment of Rent.
323. Special Verdict and Bill of Exceptions.
324. Judgment and Execution upon Finding for Claimant.

Clause.

325. Judgment upon Finding for Defendant.
326. Execution for Recovery of Possession and Costs may be joint and separate.
327. Defence by Joint Tenants, Tenants in Common, or Coparceners.
328. Trial and Judgment in Ejectment against Joint Tenants, Tenants in Common, and Coparceners.
329. Claimant in Second Ejectment for same Premises against same Defendant may be ordered to give Security for Costs.
330. Action not to abate by Death.
331. Proceeding upon Death before Trial, where Right survives.
332. Proceedings upon Death before Trial where Right does not survive.
333. Proceedings upon Death of One of several Claimants having obtained a Verdict.
334. Proceedings in case of Death of Claimant where Right does not survive.
335. Proceedings upon Death of One of several joint Defendants.
336. Upon Death of all the Defendants in Ejectment before Trial.
337. Upon Death of all Defendants in Ejectment after Verdict.
338. Upon Death before Trial of Defendant in Ejectment who defends separately for Part.
339. Upon Death of Defendant defending separately for Property in respect of which others also defend.
340. Claimant may discontinue by Notice.
341. Discontinuance of Action by One of several Claimants.
342. Judgment for not proceeding to the Trial after Notice.
343. Defendant may confess the Action.
344. Confession by One of several Defendants defending separately for Part.
345. Confession by One of several Defendants who defend for the same Property.
346. Court or a Judge may in Action of Ejectment on the Title direct temporary Bars to be waived.
347. Effect of Judgment.
348. Error and Bail in Error in Ejectment.
349. On Trials after Bail found, Judge shall not stay the Execution except by Consent, or on Tenants finding Security. Bail in Error to discharge such Security.
350. Recognizances to be taken as other Recognizances of Bail; Actions on them limited.

351. Saving

Clause.

- 351. Saving of former Remedies.
- 352. In Ejectment by Mortgagee, the Mortgagors rendering the Principal, Interest, and Costs in Court shall be deemed a full Satisfaction, and the Court may compel the Mortgagee to re-convey.
- 353. Not to extend to Cases where the Right of Redemption is controverted, or the Money due not adjusted; or to prejudice any subsequent Mortgage.
- 354. Jurisdiction of Courts and Judges.
- 355. Relief against Forfeiture for non-insuring.
- 356. Minute of Relief granted.
- 357. Appeal to the Court from Order of Judge.
- 358. Power to appeal from Order of Court.
- 359. Proof of Title.

Action for Replevin of Goods.

- 360. Action for Replevin to be commenced by Writ of Summons.
- 361. Plaintiff may sue out also a Writ of Replevin.
- 362. If Plaintiff in Replevin be nonprossed or nonsuited, Defendant entitled to Judgment and Execution for his Rent.
- 363. Payment into Court in Replevin.

Real Actions.

- 364. Dower, Writ of Right of Power, and Quare impedit abolished as Real Actions, and to be commenced by Writ of Summons.
- 365. Writ, and all Proceedings thereupon, to be same as in ordinary Actions.

Error on Special Case.

- 366. Error may be brought on a Special Case.

Miscellaneous Provisions.

- 367. Injunctions and Orders to stay Proceedings to have a specific Effect.
- 368. False Evidence.
- 369. Courts may appoint Sittings.
- 370. Amendments.
- 371. The Lord Lieutenant may direct all or Part of this Act to extend to any Court of Record.
- 372. General Rules may be made by the Judges.
- 373. New Forms of Writs and other Proceedings.

Clause.

- 374. Rules may be made by each Court for Government of its Officers.
- 375. Enactment of certain Sections to apply to all Civil and Criminal Courts in Ireland.
- 376. Repeal of former Acts.
- 377. This Act not to affect "The Common Law Procedure Amendment Act (Ireland), 1864," as to the County of Cork Juries.
- 378. Schedule of Law Fund Duties.
- 379. Interpretation of Terms.
- 380. Short Title.

SCHEDULES.



A

B I L L

TO

Amend the Pleading, Practice, and Procedure of the Courts of Common Law in Ireland.

WHEREAS it is expedient to amend the Process, Practice, Preamble.
and Mode of Pleading in the Superior Courts of Com-
mon Law at Dublin, with the View of establishing
Uniformity in the Superior Courts of Common Law in England and
5 Ireland, in the Process, Practice, and Mode of Pleading therein :

Be it therefore enacted by the Queen's most Excellent Majesty,
by and with the Advice and Consent of the Lords Spiritual and
Temporal, and Commons, in this present Parliament assembled,
and by the Authority of the same, as follows :

10 1. The Provisions of this Act shall come into operation on the Commence-
Day of in the Year ment of Act.

And with respect to the Writs for the Commencement of personal Writs for
Actions in the Superior Courts of Common Law at Dublin, against Commence-
Defendants, whether in or out of the Jurisdiction of the Courts, be ment of
15 it enacted, as follows : Actions.

2. All personal Actions brought in Her Majesty's Superior Personal
Courts of Common Law at Dublin, where the Defendant is residing Actions
or supposed to reside within the Jurisdiction of the said Courts, when De-
[Bill 48.] A fendant re-
other

sides within
the Juris-
diction to be
commenced
by Writ of
Summons in
Form No. 1.
of Schedule
(A).
15 & 16 Vict.
c. 76. s. 2.
16 & 17 Vict.
c. 113. s. 8

other than in Cases of summary Procedure upon Bills of Exchange and Promissory Notes, which are herein-after specially provided for, shall be commenced by Writ of Summons in the Form contained in the Schedule (A.) to this Act annexed, marked No. 1., and in every such Writ and Copy thereof the Place and County of the Residence 5 or supposed Residence of the Party Defendant, or wherein the Defendant shall or shall be supposed to be, shall be mentioned; and such Writ shall be authenticated by the Common Seal of the Superior Courts of Law at Dublin, to be thereunto set by the Clerk of the Writs, who shall not be required to sign such Writ, but shall 10 enter the Particulars thereof in a Book to be kept for that Purpose, at the Time of the sealing thereof; and such Writ shall bear Date on the Day on which it shall be sealed, and may be issued out at any Time, notwithstanding any Privilege.

Writs for
Commence-
ment of
Actions to
be issued in
Rotation for
the several
Courts.
16 & 17 Vict.
c. 113. s. 15.

3. All Writs of Summons for the Commencement of Actions in 15 the said Courts, in Cases in which they have a common Jurisdiction, shall, by the Clerk of the Writs, be entered and appropriated to the several Superior Courts of Law in Rotation by *Twenty-fives*, that is to say, the First *Twenty-five* for the Queen's Bench, the Second *Twenty-five* for the Common Pleas, and the Third *Twenty-five* for 20 the Exchequer, and so on in continuous Rotation of *Twenty-fives* for the several Courts, so as to produce and keep up an equal Distribution of such Writs; and all subsequent Proceedings in any Action so commenced shall be had and taken in the Court to which the said Writ shall be in the Course of Rotation appropriated, and 25 shall be the Business of the said Court and the Offices thereof: Provided always, that no Objection on the Ground of any Privilege possessed or claimed by any Defendant to be sued in any particular Court shall be valid in any such Action.

No Objec-
tion on
Ground of
Privilege to
be valid.

No Form or
Cause of
Action to be
mentioned
in Writ.
15 & 16 Vict.
c. 76. s. 3.

4. It shall not be necessary to mention any Form or Cause of 30 Action in any Writ of Summons, or in any Notice of Writ of Summons, issued under the Authority of this Act in any personal Action.

Writ to state
Names of all
Defendants,
and for only
One Action.
15 & 16 Vict.
c. 76. s. 4.

5. Every Writ of Summons shall contain the Names of all the Defendants, and shall not, save in Cases of summary Procedure 35 upon Bills of Exchange and Promissory Notes, contain the Name or Names of any Defendant or Defendants in more Actions than One.

Writ to be
dated on Day
of issuing,
and tested

6. Every Writ of Summons for the Commencement of Actions 40 in the said Courts, in Cases in which they have a common Jurisdiction, shall bear Date on the Day on which the same shall be issued,

in Name of
Superior
Courts of
Law.

15 & 16 Vict.
c. 76. s. 5.

Writ to be
indorsed
with Name
and Abode
of Attorney,
or a Memo-
randum that
Writ has
been sued
by Plaintiff
in person.

15 & 16 Vict.
c. 76. s. 6.

Attorney on Demand to declare whether Writ issued by his Authority, and Name and Abode of his Client, if ordered.

15 & 16 Vict.
c. 76, s. 7.

If Writ
issued with-
out Autho-
rity of At-
torney,

Proceedings
to be stayed.

Indorsement of Debt and

Costs on
Writ and
Copy of

Writ for a
Debt, with

Notice that
Proceedings

will be
stayed on
Beverly

Payment
within Four
Days.

15 & 16 Vict.
c. 76. s. 8.

15 & 16 Vict.
c. 76. s. 8.

09 7 68 27 00

Concurrent
Writs may
be issued.
15 & 16 Vict.
c. 76. s. 9.

10. The Plaintiff in any Action may, at any Time during Six Months from the issuing of the original Writ of Summons, issue One or more concurrent Writ or Writs, each concurrent Writ to bear Teste of the same Day as the original Writ, and to be marked with a Seal bearing the Word "concurrent," and the Date of issuing the concurrent Writ; and such Seal shall be provided and kept for that Purpose at the Office of the Clerk of the Writs, and shall be impressed by him upon the Writ: Provided always, that such concurrent Writ or Writs shall only be in force for the Period during which the original Writ in such Action shall be in force. 5 10

Renewal of
Writs of
Summons to
save the
Statute of
Limitation,
and for other
Purposes.
15 & 16 Vict.
c. 76. s. 11.
16 & 17 Vict.
c. 113. s. 28.

11. No original Writ of Summons shall be in force for more than *Six Months* from the Day of the Date thereof, including the Day of such Date; but if any Defendant therein named has not been served therewith, the original or concurrent Writ of Summons may be renewed at any Time before its Expiration, for *Six Months* from the Date of such Renewal, including the Day of such Date, and so from Time to Time during the Currency of the renewed Writ, by being marked with the Common Seal of the Superior Courts, together with a Memorandum, signed or initialed by the Officer, of the Date of the Day, Month, and Year of such Renewal; and a Writ of Summons so renewed shall remain in force and be available for all Purposes from the Date of the issuing of the original Writ of Summons: Provided always, that no Writ of Summons so renewed shall be available to prevent the Operation of any Statute whereby the Time for the Commencement of the Action may be limited, unless such Renewal shall be had by Leave of the Court or a Judge, on an Affidavit to satisfy the said Court or Judge that reasonable Diligence was used to effect Service thereof. 15 20 25

Production
of renewed
Writ Evi-
dence of
Commence-
ment of
Action.
15 & 16 Vict.
c. 76. s. 13.

12. The Production of a Writ of Summons purporting to be marked with the Common Seal of the said Superior Courts and initialed by the said Officer, showing the same to have been renewed according to this Act, shall be sufficient Evidence of its having been so renewed and of the Commencement of the Action as of the First Date of such renewed Writ for all Purposes. 30

Writ may be
served in
any County.
15 & 16 Vict.
c. 76. s. 14.

13. The Writ of Summons in any Action may be served in any Country. 35

Indorse-
ment of
Service to be
made.
15 & 16 Vict.
c. 76. s. 15.

14. The Person serving the Writ of Summons shall and he is hereby required, within *Three Days* after such Service, to indorse on the Writ the Day of the Month and Week of the Service thereof; otherwise the Plaintiff shall not be at liberty, in case of Nonappearance, to proceed under this Act; and every Affidavit of Service 40

Service of such Writ shall mention the Day on which such Indorsement was made.

15. Every such Writ of Summons issued against a Corporation aggregate may be served on the Mayor or other Head Officer, or on
5 the Town Clerk, Clerk, Treasurer, or Secretary of such Corporation; and every such Writ issued against the Inhabitants of a Barony, Half-Barony, or other like District, may be served on the High Constable thereof, or any One of the High Constables thereof; and every such Writ issued against the Inhabitants of any County of
10 any City or Town, or the Inhabitants of any Franchise, Liberty, City, Town, or Place, not being Part of a Barony or other like District, on some Peace Officer thereof, or other known and responsible Officer thereof.

As to Service of Writ on Corporations and Inhabitants of Baronies and Towns.
15 & 16 Vict. c. 76. s. 16.

16. The Service of the Writ of Summons, wherever it may be
15 practicable, shall be personal, but it shall be lawful for the Plaintiff to apply from Time to Time, on Affidavit, to the Court into which the Writ of Summons is returnable, or to a Judge thereof; and in case it shall appear to such Court or Judge that reasonable Efforts have been made to effect personal Service, and
20 either that the Writ has come to the Knowledge of the Defendant, or that he wilfully evades Service of the same, and has not appeared thereto, it shall be lawful for such Court or Judge to order that the Plaintiff be at liberty to proceed as if personal Service had been effected, subject to such Conditions as to the Court or Judge may
25 seem fit.

Proceedings where personal Service cannot be effected, but Defendant knows of the Writ and evades Service.
15 & 16 Vict. c. 76. s. 17.

17. In case any Defendant, being a British Subject, is residing out of the Jurisdiction of the Superior Courts, in any Place except in Scotland or England, it shall be lawful for the Plaintiff to issue a Writ of Summons in the Form contained in the Schedule (A.) to
30 this Act annexed, marked No. 2., which Writ shall bear the Indorsement contained in the said Form, purporting that such Writ is for Service out of the Jurisdiction of the said Superior Courts; and the Time for Appearance by the Defendant to such Writ shall be regulated by the Distance from Ireland of the Place where the Defendant is residing; and it shall be lawful for such Court or Judge as
35 aforesaid, upon being satisfied by Affidavit that there is a Cause of Action which or any Part of which arose within the Jurisdiction, or in respect of the Breach of a Contract made within the Jurisdiction, and that the Writ was personally served upon the Defendant, or that reasonable Efforts were made to effect personal Service thereof upon the Defendant, and that it came to his Knowledge, and either that the Defendant wilfully neglects to appear to such Writ, or that he is living out of the Jurisdiction of
40

As to Actions against British Subjects residing out of the Jurisdiction of Superior Courts.
15 & 16 Vict. c. 76. s. 18.

the said Courts in order to defeat and delay his Creditors, to direct from Time to Time that the Plaintiff shall be at liberty to proceed in the Action in such Manner and subject to such Conditions as to such Court or Judge may seem fit, having regard to the Time allowed for the Defendant to appear being reasonable, and to the other Circumstances of the Case: Provided always, that the Plaintiff, in case the Defendant shall not appear, shall, and he is hereby required to prove the Amount of the Debt or Damages claimed by him in such Action, either before a Jury, upon a Writ of Inquiry, or before One of the Masters of the said Superior Courts in the Manner herein-after provided, according to the Nature of the Case, as such Court or Judge may direct; and the making such Proof shall be a Condition precedent to his obtaining Judgment.

As to Actions against Foreigners residing out of the Jurisdiction of Superior Courts.

15 & 16 Vict. c. 76. s. 19.

18. In any Action against a Person residing out of the Jurisdiction of the said Courts, and not being a British Subject, the like Proceedings may be taken as against a British Subject resident out of the Jurisdiction, save that in lieu of the Form of Writ of Summons in the Schedule (A.) to this Act annexed, marked No. 2., the Plaintiff shall issue a Writ of Summons according to the Form contained in the said Schedule (A.), marked No. 3., and shall in manner aforesaid serve a Notice of such last-mentioned Writ upon the Defendant therein mentioned, which Notice shall be in the Form contained in the said Schedule, also marked No. 3.; and such Service shall be of the same Force and Effect as the Service of the Writ of Summons in any Action against a British Subject resident abroad, and by Leave of such Court or Judge as aforesaid, upon their or his being satisfied by Affidavit as aforesaid, the like Proceedings may be had and taken thereupon.

Courts may direct Substitution of Service.

16 & 17 Vict. c. 113. s. 34.

19. In case any Defendant is residing out of the Jurisdiction of the said Superior Courts, it shall be lawful for the said Court or Judge as aforesaid, upon being satisfied by Affidavit that there is a Cause of Action which or any Part of which arose within the Jurisdiction, or in respect of the Breach of a Contract made within the Jurisdiction, and that such Defendant can be properly served through any Agent or Representative, Attorney or Solicitor, or any Manager of the Real or Personal Estate of such Defendant within such Jurisdiction, upon an Application made at any Time while the said Writ shall be in force, to authorize such Substitution of Service through the Post Office, or in such Manner, and with such Extensions of Time for Service and Appearance, as to them or him shall seem fit; and that in default of an Appearance the Plaintiff may proceed thereon to Judgment as the Court or Judge may direct; and the Taxing Officer shall allow reasonable Costs on such Proceedings for substituting

stituting Service or effecting such Service as the Court or Judge shall have directed or deemed good.

20. If the Plaintiff or his Attorney shall omit to insert in or indorse on any Writ or Copy thereof any of the Matters herein-
 5 before required to be inserted therein or indorsed thereon, such Writ or Copy thereof shall not on that Account be held void, but it may be set aside as irregular or amended, upon Application to be made to the Court into which the same shall be returnable, or to a Judge; and such Amendment may be made upon Application to
 10 set aside the Writ upon such Terms as to the Court or Judge may seem fit.

Omission to insert or indorse Matters in or on Writ not to nullify it.
 15 & 16 Vict. c. 76. s. 20.

21. If any of the Forms of Writ of Summons contained in the Schedule (A.) to this Act annexed, and marked respectively Nos. 1., 2., and 3., shall by Mistake or Inadvertence be substituted for any
 15 other of them, such Mistake or Inadvertence shall not be an Objection to the Writ or any other Proceeding in such Action; but the Writ may, upon an ex parte Application to the Court or a Judge, whether before or after any Application to set aside such Writ or any Proceeding thereon, and whether the same or Notice
 20 thereof shall have been served or not, be amended by such Court or Judge without Costs.

Substitution by Mistake or Inadvertence of One Form of Writ for another, may be amended without Costs.
 15 & 16 Vict. c. 76. s. 21.

22. A Writ for Service within the Jurisdiction may be issued and marked as a concurrent Writ with One for Service out of the Jurisdiction, and a Writ for Service out of the Jurisdiction may be
 25 issued and marked as a concurrent Writ with One for Service within the Jurisdiction.

Writs for Service within and without Jurisdiction may be concurrent.
 15 & 16 Vict. c. 76. s. 22.

23. In all Cases other than Cases of summary Procedure upon Bills of Exchange and Promissory Notes, which are herein-after specially provided for, where the Defendant resides within the
 30 Jurisdiction of the said Courts, and the Claim is for a Debt or liquidated Demand in Money, with or without Interest, arising upon a Contract expressed or implied, as for Instance on a Bill of Exchange, Promissory Note, or Cheque, or other Simple Contract Debt, or on a Bond or Contract under Seal for Payment of a
 35 liquidated Amount of Money, or on a Statute where the Sum sought to be recovered is a fixed Sum of Money, or in the Nature of a Debt, or on a Guarantee, whether under Seal or not, where the Claim against the Principal is in respect of such Debt or liquidated Demand, Bill, Cheque, or Note, the Plaintiff shall be at liberty to
 40 make upon the Writ of Summons and Copy thereof a special Endorsement of the Particulars of his Claim, in the Form contained

Special Endorsement of the Particulars of Debts or liquidated Demands may be made on the Writ.
 15 & 16 Vict. c. 76. s. 25.

Special
Endorsement
to stand for
Particulars
of Demand.

in the Schedule (A.) to this Act annexed, marked No. 4., or to the like Effect; and when a Writ of Summons has been endorsed in the special Form herein-before mentioned, the Endorsement shall be considered as Particulars of Demand, and no further or other Particulars of Demand need be delivered, unless ordered by the Court or a Judge.

*Appearance,
and Pro-
ceedings in
default of
Appearance.*

And with respect to the Appearance of the Defendant, and the Proceedings of the Plaintiff in default of Appearance, be it enacted as follows:

Final Judg-
ment upon
Writ spe-
cially en-
dorsed in
default of
Appearance.
15 & 16 Vict.
c. 76. s. 27.

24. In case of Nonappearance by the Defendant, where the Writ of Summons is endorsed in the special Form herein-before provided, it shall and may be lawful for the Plaintiff, on filing an Affidavit of personal Service of the Writ of Summons, or the Order of a Court or Judge for Leave to proceed under the Provisions of this Act, and a Copy of the Writ of Summons, at once to sign final Judgment in the Form contained in the Schedule (A.) to this Act annexed, marked No. 5. (on which Judgment no Proceeding in Error shall lie), for any Sum not exceeding the Sum endorsed on the Writ, together with Interest at the Rate specified, if any, to the Date of the Judgment, and a Sum for Costs (to be fixed by a General Order to be made as herein-after mentioned), unless the Plaintiff claim more than such fixed Sum, in which Case the Costs shall be taxed in the ordinary Way; and the Plaintiff may upon such Judgment issue Execution at the Expiration of Eight Days from the last Day for Appearance, and not before: Provided always, that it shall be lawful for the Court or a Judge, either before or after final Judgment, to let in the Defendant to defend, upon an Application supported by satisfactory Affidavits accounting for the Nonappearance, and disclosing a Defence upon the Merits.

30

Judgment
for Non-
appearance
where the
Writ is not
endorsed in
the special
Form.
15 & 16 Vict.
c. 76. s. 28.

25. In case of such Nonappearance, where the Writ of Summons is not endorsed in the special Form herein-before provided, it shall and may be lawful for the Plaintiff, on filing an Affidavit of personal Service of the Writ of Summons, or the Order for Leave to proceed under the Provisions of this Act, or in the Case of Service substituted under the Provisions of this Act, on filing the Order directing such Substitution of Service, and an Affidavit, and such Documents as may be necessary for the Purpose of showing that the Requirements of such Order have been satisfied, and a Copy of the Writ of Summons, to file a Declaration endorsed with a Notice to plead in Eight Days, and to sign Judgment by Default at the Expiration of the Time to plead so endorsed as aforesaid; and in the event of no Plea being delivered where the Cause of Action mentioned

40

mentioned in the Declaration is for any of the Claims which might have been inserted in the special Endorsement on the Writ of Summons herein-before provided, and the Amount claimed is endorsed on the Writ of Summons, the Judgment shall be final, and Execution may issue for an Amount not exceeding the Amount endorsed on the Writ of Summons, with Interest at the Rate specified, if any, and the Sum fixed by a General Order for Costs, as herein-before mentioned, unless the Plaintiff claim more, in which Case the Costs shall be taxed in the ordinary Way: Provided always, that in such Case the Plaintiff shall not be entitled to more Costs than if he had made such special Endorsement and signed Judgment upon Nonappearance.

26. The Defendant may appear at any Time before Judgment, and if he appear after the Time specified either in the Writ of Summons or in any Order to proceed as if personal Service had been effected, or in any Order directing Substitution of Service, he shall, after Notice of such Appearance to the Plaintiff or his Attorney, as the Case may be, be in the same Position as to Pleadings and other Proceedings in the Action as if he had appeared in Time: Provided always, that a Defendant appearing after the Time appointed by the Writ shall not be entitled to any further Time for pleading or any other Proceeding than if he had appeared within such appointed Time.

Appearance to be entered at any Time before Judgment.
15 & 16 Vict. c. 76. s. 29.

27. Every Appearance by the Defendant in Person shall give an Address in Dublin, at which it shall be sufficient to leave all Pleadings and other Proceedings not requiring personal Service; and if such Address be not given the Appearance shall not be received; and if an Address so given shall be illusory or fictitious, the Appearance shall be irregular, and may be set aside by the Court or a Judge, and the Plaintiff may be permitted to proceed by posting the Proceedings in the Master's Office without further Service.

Appearance by the Defendant in Person to give an Address, at which Proceedings may be served.
15 & 16 Vict. c. 76. s. 30.

28. The Mode of Appearance to every such Writ of Summons or under the Authority of this Act shall be by delivering a Memorandum in Writing according to the following Form, or to the like Effect:

Mode of Appearance to Writ of Summons.
15 & 16 Vict. c. 76. s. 31.

"A.B., Plaintiff, against C.D., or } The Defendant, C.D. appears in
"against C.D. and another, or } Person, or E.F., Attorney for
"against C.D. and others: } C.D., appears for him.

40 [If the Defendant appears in Person, here give his Address.]
"Entered the Day of 18 ."

Such Memorandum to be delivered to the proper Officer or Person in that Behalf, and to be dated on the Day of the Delivery thereof.

[48.]

B

29. All

Proceedings mentioned in Writ or Notice may be had and taken.

15 & 16 Vict. c. 76. s. 32.

Proceedings where only some of the Defendants appear to a Writ specially endorsed.

15 & 16 Vict. c. 76. s. 33.

29. All such Proceedings as are mentioned in any Writ or Notice issued under this Act shall and may be had and taken in default of a Defendant's Appearance.

30. In any Action brought against Two or more Defendants, where the Writ of Summons is endorsed in the special Form herein- 5 before provided, if One or more of such Defendants only shall appear, and another or others of them shall not appear, it shall and may be lawful for the Plaintiff to sign Judgment against such Defendant or Defendants only as shall not have appeared, and, before Declaration against the other Defendant or Defendants, to issue 10 Execution thereupon, in which Case he shall be taken to have abandoned his Action against the Defendant or Defendants who shall have appeared; or the Plaintiff may, before issuing such Execution, declare against such Defendant or Defendants as shall have appeared, stating by way of Suggestion the Judgment obtained 15 against the other Defendant or Defendants who shall not have appeared, in which Case the Judgment so obtained against the Defendant or Defendants who shall not have appeared shall operate and take effect in like Manner as a Judgment by Default obtained before the Commencement of the "Common Law Procedure 20 Amendment Act (Ireland), 1853," against One or more of the several Defendants in an Action of Debt before the Commencement of the said Act.

Joinder of Parties.

And with respect to the Joinder of Parties to Actions, be it enacted as follows: 25

Joinder as Plaintiffs of all Persons supposed to be legally entitled.

23 & 24 Vict. c. 126. s. 19.

31. The Joinder of too many Plaintiffs shall not be fatal, but every Action may be brought in the Name of all the Persons in whom the legal Right may be supposed to exist; and Judgment may be given in favour of the Plaintiffs by whom the Action is brought, or of One or more of them; or in case of any Question of 30 Misjoinder being raised, then in favour of such One or more of them as shall be adjudged by the Court to be entitled to recover: Provided always, that the Defendant, though unsuccessful, shall be entitled to his Costs occasioned by joining any Person or Persons in whose Favour Judgment is not given, unless otherwise ordered by the 35 Court or a Judge.

Defendant to have Benefit of Set-off, though some Plaintiffs improperly joined.

23 & 24 Vict. c. 126. s. 20.

32. Upon the Trial of such Cause, a Defendant who has therein pleaded a Set-off may obtain the Benefit of his Set-off by proving either that all the Parties named as Plaintiffs are indebted to him, notwithstanding that One or more of such Plaintiffs was or were 40 improperly joined, or on proving that the Plaintiff or Plaintiffs who established their Right to maintain the Cause is or are indebted to him.

33. No

33. No other Action shall be brought against the Defendant by any Person so joined as Plaintiff in respect of the same Cause of Action.

No other Action for same Claim to be brought. 23 & 24 Vict. c. 126. s. 21.

34. It shall and may be lawful for the Court or a Judge, at any Time before the Trial of any Cause, to order that any Person or Persons not joined as Plaintiff or Plaintiffs in such Cause shall be so joined; or that any Person or Persons originally joined as Plaintiff or Plaintiffs shall be struck out from such Cause, if it shall appear to such Court or Judge that Injustice will not be done by such Amendment, and that the Person or Persons to be added as aforesaid consent, either in person or by Writing under his, her, or their Hands, to be so joined, or that the Person or Persons to be struck out as aforesaid were originally introduced without his, her, or their Consent, or that such Person or Persons consent in the Manner aforesaid to be so struck out; and such Amendment shall be made upon such Terms as to the Amendment of the Pleadings, if any, Postponement of the Trial, and otherwise, as the Court or Judge by whom such Amendment is made shall think proper; and when any such Amendment shall have been made, the Liability of any Person or Persons who shall have been added as Co-Plaintiff or Co-Plaintiffs shall, subject to any Terms imposed as aforesaid, be the same as if such Person or Persons had been originally joined in such Cause.

Nonjoinder and Misjoinder of Plaintiffs may be amended before Trial. 15 & 16 Vict. c. 76. s. 34.

35. In case it shall appear at the Trial of any Action that there has been a Misjoinder of Plaintiffs, or that some Person or Persons not joined as Plaintiff or Plaintiffs ought to have been so joined, and the Defendant shall not, at or before the Time of pleading, have given Notice in Writing that he objects to such Misjoinder or Nonjoinder, specifying therein the Name or Names of such Person or Persons, such Misjoinder or Nonjoinder may be amended as a Variance at the Trial by any Court of Record holding Plea in Civil Actions, and by any Judge sitting at Nisi Prius or other presiding Officer, in like Manner as to the Mode of Amendment, and Proceedings consequent thereon, or as near thereto as the Circumstances of the Case will admit, as in the Case of Amendments of Variances under the Provisions of the Forty-eighth Section of an Act of Parliament passed in the Session of Parliament held in the Third and Fourth Years of the Reign of Her Majesty the Queen, intituled "An Act for abolishing Arrest on Mesne Process in Civil Actions, except in certain Cases; for extending the Remedies of Creditors against the Property of Debtors; and for the further Amendment of the Law and the better Advancement of Justice in Ireland" (which Section is hereby for the Purposes of this

Nonjoinder and Misjoinder of Plaintiffs may be amended at the Trial as in Cases of Amendments of Variances under 3 & 4 Vict. c. 105. s. 48. 15 & 16 Vict. c. 76. s. 35.

Act re-enacted), if it shall appear to such Court or Judge or other presiding Officer that such Misjoinder or Nonjoinder was not for the Purpose of obtaining an undue Advantage, and that Injustice will not be done by such Amendment, and that the Person or Persons to be added as aforesaid consent, either in person or by 5 Writing under his, her, or their Hands, to be so joined, or that the Person or Persons to be struck out as aforesaid were originally introduced without his, her, or their Consent, or that such Person or Persons consent in manner aforesaid to be so struck out; and such Amendment shall be made upon such Terms as the Court or 10 Judge or other presiding Officer by whom such Amendment is made shall think proper; and when any such Amendment shall have been made, the Liability of any Person or Persons who shall have been added as Co-Plaintiff or Co-Plaintiffs shall, subject to any Terms imposed as aforesaid, be the same as if such Person or 15 Persons had been originally joined in such Action.

Upon Notice
or Plea of
Nonjoinder
of Plaintiffs,
Proceedings
may be
amended.

15 & 16 Vict.
c. 76. s. 36.

36. In case such Notice be given, or any Plea in Abatement of Nonjoinder of a Person or Persons as Co-Plaintiff or Co-Plaintiffs, in Cases where such Plea in Abatement may be pleaded, be pleaded by the Defendant, the Plaintiff shall be at liberty to enter a Side 20 Bar Order to amend the Writ and other Proceedings before Plea, by adding the Name or Names of the Person or Persons named in such Notice or Plea in Abatement, and to proceed in the Action without any further Appearance on Payment of the Costs of and occasioned by such Amendment only, and in such Case the 25 Defendant shall be at liberty to plead de novo.

Misjoinder
of Defen-
dants may be
amended
before or at
Trial.

15 & 16 Vict.
c. 76. s. 37.

37. It shall and may be lawful for the Court or a Judge in the Case of the Joinder of too many Defendants in any Action on Contract, at any Time before the Trial of such Cause, to order that the Name or Names of One or more of such Defendants be struck 30 out, if it shall appear to such Court or Judge that Injustice will not be done by such Amendment; and the Amendment shall be made upon such Terms as the Court or Judge by whom such Amendment is made shall think proper; and in case it shall appear at the Trial of any Action on Contract that there has been a Mis- 35 joinder of Defendants, such Misjoinder may be amended as a Variance at the Trial, in like Manner as the Misjoinder of Plaintiffs has been herein-before directed to be amended, and upon such Terms as the Court or Judge or other presiding Officer by whom such Amendment is made shall think proper.

40

Proceeding
when Non-
joinder of

38. No Plea in Abatement for the Nonjoinder of any Person as a Co-Defendant shall be allowed unless it shall be stated in such Plea that

that such Person is resident within the Jurisdiction of the Court, and unless the Place of Residence of such Person shall be stated with convenient Certainty in an Affidavit verifying such Plea; and upon any Objection for the Nonjoinder of a Defendant being taken by Plea in Abatement, it shall be competent to the Plaintiff to reply that such Person has been discharged by Bankruptcy or Insolvency, or that the Statute of Limitations would be a Bar to any Action against him.

Defendant
objected to.
3 & 4 Viet.
c. 105, ss. 37,
38.

39. In any Action on Contract where the Nonjoinder of any Person or Persons as a Co-Defendant or Co-Defendants has been pleaded in Abatement, the Plaintiff shall be at liberty to enter a Side Bar Order to amend the Writ of Summons and the Declaration, by adding the Name or Names of the Person or Persons named in such Plea in Abatement as joint Contractors, and to serve the amended Writ upon the Person or Persons so named in such Plea in Abatement, and to proceed against the original Defendant or Defendants and the Person or Persons so named in such Plea in Abatement: Provided, that the Date of such Amendment shall, as between the Person or Persons so named in such Plea in Abatement and the Plaintiff, be considered for all Purposes as the Commencement of the Action.

Upon Plea
in Abate-
ment for
Nonjoinder
of Defen-
dants, Pro-
ceedings may
be amended.
15 & 16 Viet.
c. 76. s. 38.

40. In all Cases after such Plea in Abatement and Amendment, if it shall appear upon the Trial of the Action that the Person or Persons so named in such Plea in Abatement was or were jointly liable with the original Defendant or Defendants, the original Defendant or Defendants shall be entitled as against the Plaintiff to the Costs of such Plea in Abatement and Amendment; but if at such Trial it shall appear that the original Defendant or any of the original Defendants is or are liable, but that One or more of the Persons named in such Plea in Abatement is or are not liable as a contracting Party or Parties, the Plaintiff shall nevertheless be entitled to Judgment against the other Defendant or Defendants who shall appear to be liable; and every Defendant who is not so liable shall have Judgment, and shall be entitled to his Costs as against the Plaintiff, who shall be allowed the same, together with the Costs of the Plea in Abatement and Amendment, as Costs in the Cause against the original Defendant or Defendants who shall have so pleaded in Abatement the Nonjoinder of such Person: Provided, that any such Defendant who shall have so pleaded in Abatement shall be at liberty on the Trial to adduce Evidence of the Liability of the Defendants named by him in such Plea in Abatement.

Provision in
the Case of
subsequent
Proceedings
against the
Persons
named in a
Plea in
Abatement
for Non-
joinder of
Defendants.
15 & 16 Viet.
c. 76. s. 39.

Joinder of
Claims by
Husband and
Wife, with
Claims in
right of
Husband.

16 & 17 Vict.
c. 113. s. 55.

41. In any Action brought by a Man and his Wife for any Cause of Action arising in respect of the Wife, and in respect of which she is necessarily joined as Co-Plaintiff, it shall be lawful for the Husband to add thereto Claims in his own Right, and separate Actions brought in respect of such Claims may be consolidated if the Court or Judge shall think fit: Provided, that in the Case of the Death of either Plaintiff such Suit, so far only as relates to the Causes of Action, if any, which do not survive, shall abate. 5

*Joinder of
Causes of
Action.*

—
Different
Causes of
Action may
be joined,
but separate
Trials may
be ordered
15 & 16 Vict.
c. 76. s. 41.

And with respect to Joinder of Causes of Action, be it enacted as follows :

10

42. Causes of Action of whatever Kind, provided they be by and against the same Parties and in the same Rights, may be joined in the same Suit, but this shall not extend to Real Actions or to Actions of Replevin or Ejectment; and where Two or more of the Causes of Action so joined are local and arise in different Counties the Venue may be laid in either of such Counties, but the Court or a Judge shall have Power to prevent the Trial of different Causes of Action together if such Trial would be inexpedient, and in such Cases such Court or Judge may order separate Records to be made up and separate Trials to be had. 15 20

*Questions
by Consent
without
Pleading.*

Questions
of Fact may,
after Writ
issued by
Consent and
Leave of a
Judge, be
raised
without
Pleadings.
15 & 16 Vict.
c. 76. s. 42.

And for the Determination of Questions raised by Consent of the Parties without Pleading, be it enacted as follows :

43. Where the Parties to an Action are agreed as to the Question or Questions of Fact to be decided between them, they may, after Writ issued and before Judgment, by Consent and Order of the Court or a Judge, (which Order the said Court or Judge shall have Power to make, upon being satisfied that the Parties have a bonâ fide Interest in the Decision of such Question or Questions, and that the same is or are fit to be tried,) proceed to the Trial of any Question or Questions of Fact without formal Pleadings; and such Question or Questions may be stated for Trial in an Issue in the Form contained in the Schedule (A.) to this Act annexed, marked No. 6, and such Issue may be entered for Trial and tried accordingly in the same Manner as any Issue joined in an ordinary Action; and the Proceeding in such Action and Issue shall be under and subject to the ordinary Control and Jurisdiction of the Court as in other Actions. 25 30 35

Agreement
may be
entered into
for the Pay-
ment of
Money and
Costs ac-

44. The Parties may, if they think fit, enter into an Agreement in Writing, which shall not be subject to any Stamp Duty, and which shall be embodied in the said or or any subsequent Order, that upon the Finding of the Jury in the Affirmative or Negative of such Issue or Issues, a Sum of Money fixed by the Parties, or to be ascertained 40

ascertained by the Jury upon a Question inserted in the Issue for that Purpose, shall be paid by One of such Parties to the other of them, either with or without the Costs of the Action.

cording to the Result of the Issue.
15 & 16 Vict.
c. 76. s. 43.

45. Upon the Finding of the Jury in any such Issue, Judgment may be entered for such Sum as shall be so agreed or ascertained as aforesaid, with or without Costs, as the Case may be, and Execution may issue upon such Judgment forthwith, unless otherwise agreed, or unless the Court or a Judge shall otherwise order for the Purpose of giving either Party an Opportunity for moving to set aside the Verdict or for a new Trial.

Judgment to be entered according to the Agreement, and Execution issued forthwith unless stayed.
15 & 16 Vict.
c. 76. s. 44.

46. The Proceedings upon such Issue may be recorded at the Instance of either Party, and the Judgment, whether actually recorded or not, shall have the same Effect as any other Judgment in a contested Action.

Proceedings upon Issue may be recorded.
15 & 16 Vict.
c. 76. s. 45.

47. The Parties to any Cause may, by Consent in Writing, signed by them or their Attorneys, as the Case may be, leave the Decision of any Issue of Fact to the Court, provided that the Court or a Judge shall, in their or his Discretion, think fit to allow such Trial; or provided the Judges of the Superior Courts of Law at Dublin shall, in pursuance of the Power herein-after given to them, make any General Rule or Order dispensing with such Allowance either in all Cases or in any particular Class or Classes of Cases to be defined in such Rule or Order; and such Issue of Fact may thereupon be tried and determined, and Damages assessed, where necessary, in open Court, either in Term or Vacation, by any Judge who might otherwise have presided at the Trial thereof by Jury, either with or without the Assistance of any other Judge or Judges of the same Court, or included in the same Commission at the Assizes; and the Verdict of such Judge or Judges shall be of the same Effect as the Verdict of a Jury, save that it shall not be questioned upon the Ground of being against the Weight of Evidence; and the Proceedings upon and after such Trial, as to the Power of the Court or Judge, the Evidence, and otherwise, shall be the same as in the Case of Trial by Jury.

Judges may, by Consent, try Questions of Fact.
17 & 18 Vict.
c. 125. s. 1.

48. The Parties may, after Writ issued, and before Judgment by Consent and Order of the Court, or a Judge, state any Question or Questions of Law in a Special Case, for the Opinion of the Court, without any Pleadings.

Questions of Law may be raised after Writ issued by Consent, &c., without Pleading.
15 & 16 Vict.
c. 76. s. 46.

49. The Parties may, if they think fit, enter into an Agreement in Writing, which shall not be subject to any Stamp Duty, and

Agreement as to Pay-

ment of
Money and
Costs ac-
cording to
Judgment
upon Special
Case.

15 & 16 Vict.
c. 76. s. 47.

which shall be embodied in the said or any subsequent Order, that upon the Judgment of the Court being given in the Affirmative or Negative of the Question or Questions of Law raised by such Special Case, a Sum of Money fixed by the Parties, or to be ascertained by the Court, or in such Manner as the Court may direct, shall be paid 5 by One of such Parties to the other of them, either with or without Costs of the Action; and the Judgment of the Court may be entered for such Sum as shall be so agreed or ascertained, with or without Costs, as the Case may be, and Execution may issue upon such Judgment forthwith unless otherwise agreed or unless stayed by 10 Proceedings in Error.

Costs to
follow the
Event, unless
otherwise
agreed.

15 & 16 Vict.
c. 76. s. 48.

*Pleadings in
General.*

50. In case no Agreement shall be entered into as to the Costs of such Action, the Costs shall follow the Event, and be recovered by the successful Party.

And with respect to the Language and Form of Pleadings in 15 general, be it enacted as follows :

Fictitious
and needless
Averments
not to be
made.

15 & 16 Vict.
c. 76. s. 49.

51. All Statements which need not be proved, such as the Statement of Time, Quantity, Quality, and Value, where these are immaterial; the Statement of losing and finding, and Bailment in Actions for Goods or their Value; the Statement of Acts of Trespass 20 having been committed with Force and Arms, and against the Peace of our Lady the Queen; the Statement of Promises which need not be proved, as Promises in Indebitatus Counts, and mutual Promises to perform Agreements, and all Statements of a like Kind, shall be omitted. 25

Judgment
upon De-
murrer to
be given
according to
the very
Right of the
Cause.

15 & 16 Vict.
c. 76. s. 50.

52. Either Party may object by Demurrer to the Pleading of the opposite Party on the Ground that such Pleading does not set forth sufficient Ground of Action, Defence, or Reply, as the Case may be; and where Issue is joined on such Demurrer the Court shall proceed and give Judgment according as the very Right of the 30 Cause and Matter in Law shall appear unto them, without regarding any Imperfection, Omission, Defect in or Lack of Form.

Objections }
by way of
special
Demurrer.
15 & 16 Vict.
c. 76. s. 51.

53. No Pleading shall be deemed insufficient for any Defect, which, prior to the Commencement of the Common Law Procedure Amendment Act (Ireland), 1853, could only be objected to by 35 special Demurrer.

Pleadings
framed to
embarrass
may be
struck out
or amended.

54. If any Pleading be so framed as to prejudice, embarrass, or delay the fair Trial of the Action, the opposite Party may apply to the Court or a Judge to strike out or amend such Pleading, and the Court or Judge shall make such Order respecting the same, and also 40 respecting

respecting the Costs of the Application, as such Court or Judge shall think fit. 15 & 16 Vict. c. 76. s. 52.

- 5 **55.** Rules to declare, or declare peremptorily, and Rules to reply and plead subsequent Pleadings shall not be necessary, and instead thereof a Notice shall be served requiring the opposite Party to declare, reply, rejoin, or otherwise, as the Case may be, within *Four Days*, otherwise Judgment; such Notice to be delivered separately or endorsed on any Pleading to which the opposite Party is required to reply, rejoin, or otherwise plead, as the Case may be. Four Days Notice to declare, reply, or rejoin. 15 & 16 Vict. c. 76. s. 53.
- 10 **56.** Every Declaration and other Pleading shall be intituled of the proper Court, and of the Day of the Month and the Year when the same was pleaded, and shall bear no other Time or Date, and every Declaration and other Pleading shall also be entered on the Record made up for Trial and on the Judgment Roll under the Date of the Day of the Month and Year when the same respectively took place, and without reference to any other Time or Date, unless otherwise specially ordered by the Court or a Judge. Pleadings to be dated and entered as of Time of Pleading, unless Order to the contrary. 15 & 16 Vict. c. 76. s. 54.
- 15 **57.** It shall not be necessary to make Profert of any Deed or other Document mentioned or relied on in any Pleading; and if Profert shall be made it shall not entitle the opposite Party to crave Oyer of or set out upon Oyer such Deed or other Document. Profert and Oyer not necessary. 15 & 16 Vict. c. 76. s. 55.
- 58.** A Party pleading in answer to any Pleading in which any Document is mentioned or referred to shall be at liberty to set out the whole or such Part thereof as may be material, and the Matter so set out shall be deemed and taken to be Part of the Pleading in which it is set out. Document may be set forth, and be considered a Part of the Pleading in which it is set forth. 15 & 16 Vict. c. 76. s. 56.
- 30 **59.** In Actions of Libel and Slander the Plaintiff shall be at liberty to aver that the Words or Matter complained of were used in a defamatory Sense, specifying such defamatory Sense without any prefatory Averment to show how such Words or Matter were used in that Sense, and such Averment shall be put in Issue by the Denial of the alleged Libel or Slander; and where the Words or Matter set forth, with or without the alleged Meaning, show a Cause of Action, the Declaration shall be sufficient. Declaration for Libel or Slander. 15 & 16 Vict. c. 76. s. 61.
- 35 **60.** It shall be lawful for the Plaintiff or Defendant in any Action to aver Performance of Conditions precedent generally, and the opposite Party shall not deny such Averment generally, but shall specify in his Pleading the Condition or Conditions precedent the Performance of which he intends to contest. Performance of Conditions precedent may be averred generally. 15 & 16 Vict. c. 76. s. 57.

The Process
or Adjudica-
tion of an
inferior Ju-
risdiction
may be
pleaded
generally.
16 & 17 Vict.
c. 113. s. 67.

61. In pleading any Process, Decree, Judgment, or Adjudication of a Court or Officer of special or inferior Jurisdiction, it shall not be necessary for the Party pleading or relying on such Process, Decree, Judgment, or Adjudication to state in his Pleading the Facts or Matters conferring Jurisdiction on such Court or Officer 5 to entertain the Question, or issue such Process, or make such Decree, Judgment, or Adjudication, but the same respectively may be stated in such Pleading to have been duly entertained or made by such Court or Officer; and if such Statement be controverted, the Party so pleading or relying on such Process, Decree, Judgment, 10 or Adjudication shall on the Trial establish by Proof the Facts and Matters necessary to confer Jurisdiction on such Court or Officer to entertain the Question, or issue the Process, or make the Adjudication so pleaded as aforesaid.

Declaration.

Plaintiff to
declare
within a
Year.

15 & 16 Vict.
c. 76. s. 58.

And with regard to the Time and Manner of declaring, and to 15 the Venue in personal Actions, and to particulars of Demand, be it enacted as follows :

62. A Plaintiff shall be deemed out of Court, unless he declare within *One Year* after the Writ of Summons is returnable.

Actions
against Jus-
tices of the
Peace,
Mayors, &c.
to be laid in
the County
in which the
Cause of
Action has
arisen.

21 Jac. 1.
(Eng.) c. 12.
s. 5.
42 G. 3. c. 85.
s. 6.

63. All Actions against Justices of the Peace for anything done 20 by them in execution of or by reason of their Office, and all Actions of Trespass or on the Case brought against Mayors or Bailiffs of Cities or Towns Corporate, Constables, Officers of Police, and Churchwardens, for any Act done by them in execution of or by reason of their Office, or against any Person or Persons acting in 25 their Aid or by their Command, or against any Person or Persons holding or exercising or being employed in any public Employment, or any Office, Station, or Capacity, either Civil or Military, either in or out of Ireland, and who, under and by virtue and in pursuance of any Act or Acts of Parliament, may have or may hereafter have, 30 by virtue of any such Employment, Office, Station, or Capacity, Power or Authority to commit Persons to safe Custody, for any Act done by them in the Execution of or by reason of their Office, shall be laid and tried in the County where the Cause of Action is alleged to have arisen, and not in any other County; and if upon the Trial 35 of any such Action the Plaintiff therein shall not prove that the Fact or Cause of Action was done or arose within the County laid as Venue in the Margin of the Declaration, the Jury shall find the Defendant not guilty, without having regard to any Evidence given by the Plaintiff relative to the Fact or Cause in respect of which 40 the Action shall be brought: Provided always, that when any such Action shall be brought in any of the said Superior Courts against any such Person holding or exercising any such public Employment

or

or Office, Station, or Capacity as last aforesaid, for or upon any Act, Matter, or Thing done out of the Jurisdiction of the said Courts, it shall be lawful for the Plaintiff to lay the Venue in the County or County of the City of Dublin, or in any County where the Defendant shall then reside.

64. In all Actions in which the Venue is local, the Court in which such Action shall be pending or a Judge may, on the Application of either Party, order the Issue to be tried or Writ of Inquiry to be executed in any other County or Place than that in which the Venue is laid; and for that Purpose any such Court or Judge may order a Suggestion to be entered on the Record that the Trial may be more conveniently or properly had or Writ of Inquiry executed in the County or Place where the same is ordered to take place: Provided also, that nothing herein contained shall be deemed to affect the general Jurisdiction of the Court to order the Venue to be changed in such Actions upon other Grounds.

Court or Judge may direct such Actions to be tried elsewhere.
3 & 4 Vict. c. 105. s. 47.

65. In all Actions in which the Venue is transitory it shall be lawful for the Court or a Judge to order the Venue to be changed to any other County in which the Trial can be more conveniently or properly had, on special Grounds only, and not merely because the Cause of Action arose in any particular Place or County, and for that Purpose to direct that a Suggestion be entered upon the Record that the Trial may be more conveniently or properly had in the County or Place where the same is ordered to take place.

Court or Judge may, in transitory Actions, order Venue to be changed.

66. Every Declaration shall commence as follows, or to the like Effect:

Forms of Commencement, &c. of Declaration.
15 & 16 Vict. c. 76. s. 59.

[Venue.] “*A.B.*, by *E.F.*, his Attorney [*or in Person, as the Case may be,*] sues *C.D.* for [*here state the Cause of Action*];” And shall conclude as follows, or to the like Effect:

“And the Plaintiff claims £ [or if the Action is brought to recover specific Goods, the Plaintiff claims a Return of the said Goods or their Value, and £ for their Detention].”

And the Name of a County shall in all Cases be stated in the Margin of such Declaration, and shall be taken to be the Venue intended by the Plaintiff, and no Venue shall be stated in the Body of the Declaration or in any subsequent Pleading: Provided, that in Cases in which local Description is now required, such local Description shall be given.

67. Several Counts on the same Cause of Action shall not be allowed, and any Count or Counts used in violation of this Provision

Several Counts on the same

Cause of
Action not
to be al-
lowed.

sion may, on the Application of the Party objecting, within a reasonable Time, or before an Order made for Time to plead, be struck out, or amended by the Court or a Judge, on such Terms as to Costs or otherwise as such Court or Judge may think fit: Provided always, that on an Application to the Court or a Judge to strike out any Count on the Ground of such Count being in violation of this Provision, the Court or Judge may allow such Counts on the same Cause of Action as may appear to such Court or Judge to be proper for determining the real Question in controversy between the Parties on its Merits, subject to such Terms as to Costs and otherwise as the Court or Judge may think fit.

Commence-
ment of De-
claration
after Plea
of Non-
joinder.
15 & 16 Vict.
c. 76. s. 60.

68. In all Cases, in which, after a Plea in Abatement of the Nonjoinder of another Person as Defendant, the Plaintiff shall, without having proceeded to Trial on an Issue thereon, commence another Action against the Defendant or Defendants in the Action in which such Plea in Abatement shall have been pleaded, and the Person or Persons named in such Plea in Abatement as joint Contractors, or shall amend by adding the omitted Defendant or Defendants, the Commencement of the Declaration shall be in the following Form, or to the like Effect :

[Venue.] “ *A.B.*, by *E.F.*, his Attorney [*or* in his own proper Person, &c.], sues *C.D.* and *G.H.*, which said *C.D.* has heretofore pleaded in Abatement the Nonjoinder of the said *G.H.* for,” &c.

Further
Particulars.
16 & 17 Vict.
c. 113 s. 46.

69. The Court or a Judge may, in any Case, by any Order made on Motion, direct a further or more detailed Particular of the Items of Demand or Credits referred to in any Declaration, or of any Payments or Set-off referred to in any Plea or subsequent Pleading, to be furnished; and in any Action for any Injury to Person or Property, the Court or a Judge may order Plans of the Place in which the Injury is alleged to have been committed, or as to which any Justification is pleaded, to be given or exchanged between the Parties; and in case any Order shall be made for any of the Purposes aforesaid, the Defendant shall, unless the Court or Judge shall otherwise direct, have the same Time for Pleading after Compliance with such Order as he had at the Time when Notice of such Application was given.

Pleadings.

Rules to
plead and
Demand of
Plea not
necessary.
15 & 16 Vict.
c. 76. s. 62.

And as to Pleas and subsequent Pleadings, be it enacted as follows :

70. No Rule to plead or Demand of Plea shall be necessary, and the Notice to plead endorsed on the Declaration or delivered separately shall be sufficient.

71. In

71. In Cases where the Defendant is within the Jurisdiction, the Time for Pleading in Bar, unless extended by the Court or a Judge, shall be Eight Days; and a Notice requiring the Defendant to plead in Eight Days, otherwise Judgment may, whether the Declaration
5 be delivered or filed, be endorsed upon the Declaration or delivered separately.

Time for pleading, where Defendant is within Jurisdiction, to be Eight Days.
15 & 16 Vict. c. 76. s. 63.

72. Express Colour or special Traverses shall not be necessary in any Pleading.

Express Colour or special Traverses not necessary.
15 & 16 Vict. c. 76. ss. 64, 65.

73. In a Plea or subsequent Pleading it shall not be necessary
10 to use any Allegation of Actionem non, or Actionem ulterius non, or to the like Effect, or any Prayer of Judgment, nor shall it be necessary in any Replication or subsequent Pleading to use any Allegation of Precludi non, or to the like Effect, or any Prayer of Judgment.

Formal Commencement and Prayer of Judgment unnecessary.
15 & 16 Vict. c. 76. s. 66.

74. No formal Defence shall be required in a Plea or Avowry or Cognizance, and it shall commence as follows, or to the like Effect:

Commencement of Plea.
15 & 16 Vict. c. 76. s. 67.

“ The Defendant, by _____, his Attorney, [*or in Person,*

“ *or as the Case may be*], says that [*here state First*

20 “ *Defence ;*] ”

And it shall not be necessary to state in a Second or other Plea or Avowry or Cognizance, that it is pleaded by Leave of the Court or a Judge, or according to the Form of the Statute, or to that Effect; but every such Plea, Avowry, or Cognizance shall be
25 written in a separate Paragraph, and numbered, and shall commence as follows, or to the like Effect :

“ And for a Second [*&c.*] Plea the Defendant says, that [*here*

“ *state Second, &c. Defence ;*] ”

or if pleaded to Part only, then as follows, or to the like Effect :

30 “ And for a Second [*&c.*] Plea to [*stating to what it is pleaded*],

“ the Defendant says, that [*&c.*] ; ”

and no formal Conclusion shall be necessary to any Plea, Avowry, Cognizance, or subsequent Pleading.

75. In all Actions by and against Assignees of a Bankrupt or
35 Insolvent, or Executors or Administrators, or Persons authorized by Act of Parliament to sue or be sued as nominal Parties, the Character in which the Plaintiff or Defendant is stated on the Record to sue or be sued shall not in any Case be considered as in Issue, unless specially denied.

Character of Assignees of Bankrupt, &c. to be taken as admitted, if not denied.

Effect of
Plea of Non
assumpsit in
Actions on
Simple Con-
tract.

76. In all Actions on Simple Contract, except as herein-after excepted, the Plea of "Non assumpsit," or a Plea traversing the Contract or Agreement alleged in the Declaration, shall operate only as a Denial in Fact of the express Contract, Promise, or Agreement alleged; or of the Matters of Fact from which the Contract, Promise, or Agreement alleged may be implied by Law; as for instance :—

In an Action on a Warranty such Pleas shall operate as a Denial of the Fact of the Sale and Warranty having been given, but not of the Breach; and in an Action on a Policy of Insurance, of the Subscription to the alleged Policy by the Defendant, but not of the Interest, of the Commencement of the Risk, of the Loss, or of the alleged Compliance with Warranties :

In Actions against Carriers and other Bailees for not delivering or not keeping Goods safe, or not returning them on Request, and in Actions against Agents for not accounting, such Pleas shall operate as a Denial of any express or implied Contract to the Effect alleged in the Declaration, but not of the Breach :

To Causes of Action to which the Plea of "Never was indebted" is applicable, as provided in Schedule (B.) 35. to this Act annexed, and to those of a like Nature, the Plea of "Non assumpsit" shall be inadmissible, and the Plea of "Never was indebted" shall operate as a Denial of those Matters of Fact from which the Liability of the Defendant arises; as, for instance, in Actions for Goods bargained and sold, or sold and delivered, the Plea shall operate as a Denial of the Bargain and Sale, or Sale and Delivery, in Point of Fact; in the like Action for Money had and received it shall operate as a Denial both of the Receipt of Money and the Existence of those Facts which make such Receipt by the Defendant a Receipt to the Use of the Plaintiff.

Pleas of Non
assumpsit
and Never in-
debted not to
be allowed in
Actions on
Bills of Ex-
change and
Promissory
Notes.

77. In all Actions upon Bills of Exchange and Promissory Notes, the Pleas of "Non assumpsit" and "Never indebted" shall be inadmissible, and every Plea in Denial must traverse some Matter of Fact; as, for instance, the drawing, or making, or endorsing, or accepting, or presenting, or Notice of Dishonour of the Bill or Note.

Effect of
Plea of Non
est factum.

78. In Actions on Specialties and Covenants the Plea of "Non est factum" shall operate as a Denial of the Execution of the Deed in Point of Fact only, and all other Defences shall be specially pleaded,

pleaded, including Matters which make the Deed absolutely void, as well as those which make it voidable.

79. The Plea of "Nil debet" shall not be allowed in any Action.

Plea of Nil debet not to be allowed.

80. In Actions on Contract all Matters in Confession and Avoidance, including not only those by way of Discharge but those which show the Transaction to be either void or voidable in Point of Law, on the Ground of Fraud or otherwise; as, for instance, Infancy, Coverture, Release, Payment, Performance, Illegality of Consideration, either by Statute or Common Law, drawing, endorsing, accepting, &c., Bills or Notes by way of Accommodation, Set-off, mutual Credit, Unseaworthiness, Misrepresentation, Concealment, Deviation, and other Defences of the like Character, shall be specially pleaded.

Defence by way of Confession and Avoidance to be specially pleaded in Actions upon Contract.

81. Payment, whether before Action brought, or when made into Court, shall not in any Case be allowed to be given in Evidence in reduction of Damages or Debt without being pleaded.

Payment not to be given in Evidence in reduction of Amount without Plea.

82. In Actions for detaining Goods, the Plea of "Non detinet" shall operate as a Denial of the Detention of the Goods by the Defendant, but not of the Plaintiff's Property therein, and no other Defence than such Denial shall be admissible under that Plea.

Effect of Plea of Non detinet.

83. In Actions of Tort the Plea of "Not Guilty" shall operate as a Denial only of the Breach of Duty or wrongful Act alleged to have been committed by the Defendant, and not of the Facts stated in the Inducement, and no other Defence than such Denial shall be admissible under that Plea; all other Pleas in denial shall take Issue on some particular Matter of Fact alleged in the Declaration; as for instance:

Effect of Plea of Not Guilty in Actions of Wrong.

In an Action for a Nuisance to the Occupation of a House by carrying on an offensive Trade, the Plea of "Not Guilty" shall operate as a Denial only that the Defendant carried on the alleged Trade in such a Way as to be a Nuisance to the Occupation of the House, and shall not operate as a Denial of the Plaintiff's Occupation of the House:

In an Action for obstructing a Right of Way, such Plea shall operate as a Denial of the Obstruction only, and not of the Plaintiff's Right of Way:

In an Action for Slander of the Plaintiff in his Office, Profession, or Trade, the Plea of "Not Guilty" shall operate in denial of speaking the Words, of speaking them maliciously, and in the defamatory Sense imputed, and with reference to the [48.]

Plaintiff's Office, Profession, or Trade, but it shall not operate as a Denial of the Fact of the Plaintiff holding the Office or being of the Profession or Trade alleged :

In Actions for an Escape, the Plea of "Not Guilty" shall operate as a Denial of the Neglect or Default of the Sheriff or 5 his Officers, but not of the Debt, Judgment, or preliminary Proceedings :

In Actions against a Carrier, the Plea of "Not Guilty" shall operate as a Denial of the Loss or Damage, but not of the Receipt of the Goods by the Defendant as a Carrier for Hire, 10 or of the Purpose for which they were received.

General
Issue may be
pleaded in
certain
Actions.

21 Jac. 1.
(Eng.) c. 12.
s. 5.

84. In all such Actions as in the Sixty-third Section of this Act mentioned, it shall be lawful for the Defendant to plead the General Issue therein, and to give any special Matter of Defence, Excuse, or Jurisdiction in Evidence under such Plea at the Trial 15 of such Action.

In Actions
of Wrong,
Defences in
Confession
and Avoid-
ance to be
specially
pleaded.

Effect of
Plea of Not
Guilty in
Actions of
Trespass.

85. Save as herein otherwise provided, all Matters in Confession or Avoidance shall be specially pleaded in Actions of Tort in like Manner as in Actions on Contract.

86. In Actions for Trespass to Land, the Plea of "Not Guilty" 20 shall operate as a Denial that the Defendant committed the Trespass alleged in the Place mentioned, but not as a Denial of the Plaintiff's Possession or Right of Possession of that Place, which, if intended to be denied, must be traversed specially.

Effect of
Plea of Not
Guilty in
Action for
taking Goods

87. In Actions for taking, damaging, or converting the Plaintiff's 25 Goods, the Plea of "Not Guilty" shall operate as a Denial of the Defendant having committed the Wrong alleged, by taking, damaging, or converting the Goods mentioned, but not of the Plaintiff's Property therein.

Set-off.
16 & 17 Vict.
c. 113. s. 40.

88. In any Case in which there are mutual Debts between the 30 Plaintiff and the Defendant, or if either Party sue or be sued as Executor or Administrator where there are mutual Debts between the Testator and Intestate and either Party, whether such Debts have accrued before or after Action brought, One Debt may be set off against the other, and such Matter may be pleaded, according to 35 Circumstances, in bar of the Action, or the further Maintenance thereof, or so much of the Debt as it covers, and the Account upon which it became due shall be alleged as in a Declaration for the same Debt.

89. Any

89. Any Defence arising after the Commencement of any Action shall be pleaded according to the Fact, without any formal Commencement or Conclusion; and any Plea which does not state whether the Defence therein set up arose before or after Action shall be deemed a Plea of Matter arising before Action.

Plea of Matter subsequent to Action.
15 & 16 Vict.
c. 76. s. 68.

90. In Cases in which a Plea Puis darrein continuance was before the Commencement of the Common Law Procedure Amendment Act (Ireland), 1853, pleadable in Banc or at Nisi Prius, the same Defence may be pleaded with an Allegation that the Matter arose after the last Pleading; and such Plea may, when necessary, be pleaded at Nisi Prius between the *First of August* and *Twentieth of October*, but no such Plea shall be allowed unless accompanied by an Affidavit that the Matter thereof arose within Eight Days next before the pleading of such Plea, or unless the Court or a Judge shall otherwise order.

Plea Puis darrein continuance, when and how to be pleaded.
15 & 16 Vict.
c. 76. s. 69.

91. It shall be lawful for the Defendant in all Actions (except Actions for Assault and Battery, false Imprisonment, Libel, Slander, malicious Arrest or Prosecution, Criminal Conversation or debauching of the Plaintiff's Daughter or Servant), and by Leave of the Court or a Judge, and upon such Terms as they or he may think fit, for the Defendant in such excepted Actions, or for One or more of several Defendants in any Action, to pay into Court a Sum of Money by way of Compensation or Amends: Provided that nothing herein contained shall be taken to affect the Provisions of a certain Act of Parliament passed in the Session of Parliament holden in the Sixth and Seventh Years of the Reign of Her present Majesty, intituled "An Act to amend the Law respecting defamatory Words "and Libel."

Payment into Court.
15 & 16 Vict.
c. 76. s. 70.

92. In any Action brought upon a Bond which has a Condition or Defeazance to make void the same upon Payment of a lesser Sum at a Day or Place certain, with a Penalty, and in any Action for detaining the Goods of the Plaintiff, it shall be lawful for the Defendant, by Leave of the Court or a Judge, and upon such Terms as they or he shall think fit, to pay into Court a Sum of Money to answer the Claim of the Plaintiff in respect of such Bond in the former Case, and in the latter Case to the Value of the Goods alleged to be detained.

Payment into Court in Actions on Money Bonds, and for Detainer.
23 & 24 Vict.
c. 126. s. 25.

93. When Money is paid into Court such Payment shall be pleaded in all Cases as near may be in the following Form, mutatis mutandis:

Payment into Court how pleaded.
15 & 16 Vict.
c. 76. s. 71.

" The Defendant by his Attorney [or in Person, &c.] [if pleaded to Part, say, as to £
[48.] D

“ Parcel of the Money claimed], brings into Court the Sum of
 “ £ and says that the said Sum is enough to
 “ satisfy the Claim of the Plaintiff in respect of the Matter
 “ herein pleaded to.”

Payment of
 Money into
 Court.

16 & 17 Vict.
 c. 113. ss. 75,
 76.

94. No Order of the Court or a Judge to pay Money into Court 5
 shall be necessary, except in the Cases herein-before specially pro-
 vided, but such Payment shall be made by lodging the Money in
 the Bank of Ireland on behalf of the Defendant, who shall make
 such Lodgment with the Privity of the Master of the Court, and to
 the Credit of the Cause; and such Master, on the Certificate of such 10
 Lodgment being delivered to him, shall give a Receipt for the
 Amount in the Margin of the Plea; and the Master shall, on
 Demand by the Plaintiff, draw upon the Bank of Ireland in favour
 of the Plaintiff or his Attorney, upon a written Authority from the
 Plaintiff, for the Sum so lodged by the Defendant. 15

Proceeding
 by Plaintiff
 after Pay-
 ment into
 Court.

15 & 16 Vict.
 c. 76. s. 73.

95. The Plaintiff, after the Delivery of a Plea of Payment of
 Money into Court, shall be at liberty to reply to the same by
 accepting the Sum so paid into Court in full Satisfaction and Dis-
 charge of the Cause of Action in respect of which it has been paid
 in, and he shall be at liberty in that Case to tax his Costs of Suit, 20
 and, in case of Nonpayment thereof within Forty-eight Hours, to
 sign Judgment for his Costs of Suit so taxed; or the Plaintiff may
 reply that the Sum paid into Court is not enough to satisfy the
 Claim of the Plaintiff in respect of the Matter to which the Plea is
 pleaded; and in the event of an Issue thereon being found for the 25
 Defendant, the Defendant shall be entitled to Judgment and his
 Costs of Suit.

Pleas to
 Actions par-
 taking both
 of Breach of
 Contract
 and Wrong.
 15 & 16 Vict.
 c. 76. s. 74.

96. Whereas certain Causes of Action may be considered to par-
 take of the Character both of Breaches of Contract and of Wrongs,
 and Doubts may arise as to the Form of Pleas in such Actions, and 30
 it is expedient to preclude such Doubts: Any Plea which shall be
 good in Substance shall not be objectionable on the Ground of its
 treating the Declaration either as framed for a Breach of Contract
 or for a Wrong.

Payment,
 Set-off, and
 other Plead-
 ings which
 can be con-
 strued dis-
 tributively
 shall be so
 construed.
 15 & 16 Vict.
 6. s. 75.

97. Pleas of Payment and Set-Off, and all other Pleadings 35
 capable of being construed distributively, shall be taken distri-
 butively, and if Issue is taken thereon, and so much thereof as
 shall be sufficient Answer to Part of the Causes of Action proved
 shall be found true by the Jury, a Verdict shall pass for the De-
 fendant in respect of so much of the Causes of Action as shall be 40
 answered,

answered, and for the Plaintiff in respect of so much of the Causes of Action as shall not be so answered.

98. A Defendant may either traverse generally such of the Facts contained in the Declaration as might have been denied by One Plea, or may select and traverse separately any material Allegation in the Declaration, although it might have been included in a general Traverse.

Traverse of the Declaration.
15 & 16 Vict. c. 76. s. 76.

99. A Plaintiff shall be at liberty to traverse the whole of any Plea or subsequent Pleading of the Defendant by a general Denial, or, admitting some Part or Parts thereof, to deny all the rest, or to deny any One or more Allegations.

Traverse of Plea or subsequent Pleading of Defendant.
15 & 16 Vict. c. 76. s. 77.

100. A Defendant shall be at liberty in like Manner to deny the whole or Part of a Replication or subsequent Pleading of the Plaintiff.

Traverse of Replication or subsequent Pleading of the Plaintiff.
15 & 16 Vict. c. 76. s. 78.

101. It shall be lawful for the Defendant in any personal Action, and for the Plaintiff in any Action of Replevin in any of the said Superior Courts, in which if Judgment were obtained he would be entitled to Relief against such Judgment on equitable Grounds, to plead the Facts which entitle him to such Relief by way of Defence, and the said Courts are hereby empowered to receive such Defence by way of Plea, provided that such Plea shall begin with the Words "For Defence on equitable Grounds," or Words to the like Effect.

Equitable Defence may be pleaded.
17 & 18 Vict. c. 125. s. 83.

102. Any such Matter which, if it arose before or during the Time for pleading, would be an Answer to the Action by way of Plea, may, if it arise after the Lapse of the Period during which it could be pleaded, be set up by way of Audita querela.

Equitable Defence after Judgment.
17 & 18 Vict. c. 125. s. 84.

103. The Plaintiff may reply, in answer to any Plea of the Defendant, Facts which avoid such Plea upon equitable Grounds, provided that such Replication shall begin with the Words "For Replication on equitable Grounds," or Words to the like Effect.

Equitable Replication.
17 & 18 Vict. c. 125. s. 85.

104. Provided always, That in case it shall appear to the Court or a Judge that any such equitable Plea or equitable Replication cannot be dealt with by a Court of Law so as to do Justice between the Parties, it shall be lawful for such Court or Judge to order the same to be struck out, on such Terms as to Costs and otherwise, as to such Court or Judge may seem reasonable.

Court or Judge may strike out equitable Plea or Replication.
17 & 18 Vict. c. 125. s. 86.

Actions on
lost Instru-
ments.
17 & 18 Vict.
c. 125. s. 87.

105. In case of any Action founded on a Bill of Exchange or other negotiable Instrument, it shall be lawful for the Court or a Judge to order that the Loss of such Instrument shall not be set up, provided an Indemnity is given to the Satisfaction of the Court, Judge, or Master against the Claims of any other Person upon such negotiable Instrument. 5

Joinder of
Issue.
15 & 16 Vict.
c. 76. s. 79.

106. Either Party may plead, in answer to the Plea or subsequent Pleading of his Adversary, that he joins Issue thereon, which Joinder of Issue may be as follows, or to the like Effect :

“ The Plaintiff joins Issue upon the Defendant’s First [*&c.* 10
“ *specifying what or what Part*] Plea :”

“ The Defendant joins Issue upon the Plaintiff’s Replication to
“ the First [*&c. specifying what*] Plea :”

And such Form of Joinder of Issue shall be deemed to be a Denial of the Substance of the Plea or other subsequent Pleading, and an Issue 15 thereon ; and in all Cases where the Plaintiff’s Pleading is in denial of the Pleading of the Defendant, or some Part of it, the Plaintiff may add a Joinder of Issue for the Defendant.

As to plead-
ing and de-
murring
together.
15 & 16 Vict.
c. 76. s. 80.

107. Either Party may, by Leave of the Court or a Judge, plead and demur to the same Pleading at the same Time, upon an 20 Affidavit by such Party or his Attorney, if required by the Court or Judge, to the Effect that he is advised and believes that he has just Ground to traverse the several Matters proposed to be traversed by him, and that the several Matters sought to be pleaded as afore-
said by way of Confession and Avoidance are respectively true in 25 Substance and in Fact, and that he is further advised and believes that the Objections raised by such Demurrer are good and valid Objections in Law, and it shall be in the Discretion of the Court or a Judge to direct which Issue shall be first disposed of.

Several
Matters may
be pleaded
at any Stage
of the
Pleadings.
15 & 16 Vict.
c. 76. s. 81.

108. The Plaintiff in any Action may, by Leave of the Court 30 or a Judge, plead in answer to the Plea or the subsequent Pleading of the Defendant as many several Matters as he shall think necessary to sustain his Action ; and the Defendant in any Action may, by Leave of the Court or a Judge, plead in answer to the Declaration or other subsequent Pleading of the Plaintiff as many several Matters 35 as he shall think necessary for his Defence, upon an Affidavit of the Party making such Application, or his Attorney, if required by the Court or Judge, to the Effect that he is advised and believes that he has just Ground to traverse the several Matters proposed to be traversed by him, and that the several Matters sought to be pleaded 40 as aforesaid by way of Confession and Avoidance are respectively true in Substance and in Fact : Provided that the Costs of any Issue
either

either in Fact or Law shall follow the Finding or Judgment upon such Issue, and be adjudged to the successful Party, whatever may be the Result of the other Issue or Issues.

109. All Objections to the Pleading of several Pleas, Replications, or subsequent Pleadings, or several Avowries or Cognizances, on the Ground that they are founded on the same Ground of Answer or Defence, shall be heard upon the Application to plead several Matters.

Objections to Pleadings to be heard on Application to plead several Matters.

15 & 16 Vict. c. 76. s. 83.

110. The following Pleas, or any Two or more of them, may be pleaded together as of course, without Leave of the Court or a Judge; that is to say, a Plea denying any Contract or Debt alleged in the Declaration; a Plea of Tender as to Part; a Plea of the Statute of Limitations, Set-off, Bankruptcy of the Defendant, Discharge under an Insolvent Act, Plene administravit, Plene administravit præter, Infancy, Coverture, Payment, Accord and Satisfaction, Release, Not Guilty, a Denial that the Property an Injury to which is complained of is the Plaintiff's, Leave and Licence, Son assault demesne, and any other Pleas which the Judges of the said Superior Courts, or any Seven or more of them, of whom the Chief Judges of the said Courts shall be Three, shall by any Rule or Order to be from Time to Time by them made in Term or Vacation order or direct.

Certain Pleas may be pleaded together without Leave.

15 & 16 Vict. c. 76. s. 84.

111. Except in the Cases herein specifically provided for, if either Party plead several Pleas, Replications, Avowries, Cognizances, or other Pleadings without Leave of the Court or a Judge, the opposite Party shall be at liberty to sign Judgment: Provided that such Judgment may be set aside by the Court or a Judge upon an Affidavit of Merits, and upon such Terms as to Costs and otherwise as they or he may think fit.

For pleading several Matters without Leave, Judgment may be signed.

15 & 16 Vict. c. 76. s. 86.

112. One new Assignment only shall be pleaded to any Number of Pleas to the same Cause of Action; and such new Assignment shall be consistent with and confined by the Particulars delivered in the Action, if any, and shall state that the Plaintiff proceeds for Causes of Action different from all those which the Pleas profess to justify, or for an Excess over and above what all the Defences set up in such Pleas justify, or both.

One new Assignment only allowed in respect of the same Cause of Action.

15 & 16 Vict. c. 76. s. 87.

113. No Plea which has already been pleaded to the Declaration shall be pleaded to such new Assignment, except a Plea in Denial, unless by Leave of the Court or a Judge, and such Leave shall only be granted upon satisfactory Proof that the Repetition of such Plea is essential to a Trial on the Merits.

Pleas not to be repeated. 15 & 16 Vict. c. 76. s. 88.

Form of Demurrer and Joinder in Demurrer.

15 & 16 Vict. c. 76. s. 89.

114. The Form of a Demurrer shall be as follows, or to the like Effect :

“ The Defendant, by his Attorney, [*or in Person, &c., or Plaintiff,*] “ says, that the Declaration [*or Plea, &c.*] is bad in Substance.”

And in the Margin thereof some substantial Matter of Law intended to be argued shall be stated, and if any Demurrer shall be delivered without such Statement, or with a frivolous Statement, it may be set aside by the Court or Judge, and Leave may be given to sign Judgment as for Want of a Plea; and the Form of a Joinder in Demurrer shall be as follows, or to the like Effect :

“ The Plaintiff [*or Defendant*] says that the Declaration [*or Plea, &c.*] is good in Substance.”

Time for Pleading after Amendment.
15 & 16 Vict. c. 76. s. 90.

115. Where an Amendment of any Pleading is allowed, no new Notice to plead thereto shall be necessary, but the opposite Party shall be bound to plead to the amended Pleading within the Time specified in the original Notice to plead, or within Two Days after Amendment, whichever shall last expire, unless otherwise ordered by the Court or Judge; and in case the amended Pleading has been pleaded to before Amendment, and is not pleaded to de novo within Two Days after Amendment, or within such other Time as the Court or a Judge shall allow, the Pleadings originally pleaded thereto shall stand and be considered as pleaded in answer to such amended Pleading.

Pleadings subsequent to the Declaration not to be filed.

116. No Demurrer, nor any Pleading subsequent to the Declaration, shall in any Case, except by special Order of the Court, be filed with any Officer of the Court, but the same shall, unless otherwise provided by General Orders, be delivered between the Parties: Provided always, that before delivering any Demurrer or other such Pleading as aforesaid, the Attorney or Person delivering the same shall bring or cause the same to be brought to the Office of the Clerk of the Writs, impressed with the Stamp now or hereafter by Law required to be impressed upon such Demurrer or other such Pleading as aforesaid, and thereupon the Clerk of the Writs shall impress such Demurrer or other Pleading with the Seal of the said Superior Courts of Common Law; and no Delivery of any Demurrer or other such Pleading shall be of any Effect unless so stamped and sealed as aforesaid.

Examples of Pleading.

Forms in Schedule may be adopted.
15 & 16 Vict. c. 76. s. 91.

And whereas it is desirable that Examples should be given of the Statements of Causes of Action and of Forms of Pleading: Be it enacted as follows :

117. The Forms contained in the Schedule (B.) to this Act annexed shall be sufficient, and those and the like Forms may be used,

used, with such Modifications as may be necessary to meet the Facts of the Case, but nothing herein contained shall render it erroneous or irregular to depart from the Letter of such Forms so long as the Substance is expressed without Prolivity.

5 And with respect to Judgment by Default, and the Mode of ascertaining the Amount to be recovered thereupon, be it enacted as follows :

Judgment by Default and ascertaining Amount to be recovered.

118. No Rule to compute shall be necessary or used, but in Actions where the Plaintiff seeks to recover a Debt or liquidated Demand in
10 Money Judgment by Default shall be final.

Rule to compute unnecessary.
15 & 16 Vict.
c. 76. ss. 92, 93.

119. In Actions in which it shall appear to the Court or a Judge that the Amount of Damages sought to be recovered by the Plaintiff is substantially a Matter of Calculation, it shall not be necessary to issue a Writ of Inquiry, but the Court or a Judge may direct that
15 the Amount for which final Judgment is to be signed shall be ascertained by the Master of the said Court; and the Attendance of Witnesses and the Production of Documents before such Master may be compelled by Subpcena, in the same Manner as before a Jury upon a Writ of Inquiry, and it shall be lawful for such
20 Master to adjourn the Inquiry from Time to Time as Occasion may require: Provided always, that in case the said Master shall upon any such Reference think it proper to have any Fact controverted on the Reference tried by a Jury, in such Case the said Master may sign a Requisition to that Effect intituled in the Cause, and direct
25 the same to be delivered to the Sheriff of the County of the City of Dublin Two Days before the Time when such Jury shall be required, and the Jurors shall be summoned and taken from the List of Persons liable to serve as Jurors in the County of the City of Dublin, and the Sheriff shall cause so many of the said Jurors as
30 in his Opinion he shall deem sufficient to be summoned, and such Persons shall attend, and either Party shall be entitled to his lawful Challenge against all or any of the said Jurors; and a Jury of Twelve shall be returned to try such Fact or Facts as shall seem doubtful to such Master, who shall proceed to make his Report on
35 the Verdict of such Jury as he shall think fit; and such Jury shall be sworn and paid as a Common Jury at Nisi Prius, and the Master shall endorse upon the Rule or Order for referring the Amount of Damages to him the Amount found by him, and shall deliver the Rule or Order with such Endorsement to the Plaintiff, and such and
40 the like Proceedings may thereupon be had as to Taxation of Costs, signing Judgment, and otherwise, as upon the Finding of a Jury upon a Writ of Inquiry.

Inquiry of Damages may be directed to take place before the Master.
16 & 17 Vict.
c. 113. s. 98.

Ordinary
Writ of
Inquiry in
other Cases.
16 & 17 Vict.
c. 76. s. 100.

120. In Actions in which the Plaintiff's Demand is not for a Debt or liquidated Sum in Money, and where the Amount of Damages sought to be recovered cannot be calculated as aforesaid, it shall be lawful for the Plaintiff to issue a Writ of Inquiry to the Sheriff of the proper County, or other Person thereunto lawfully authorized, 5 and such Inquiry shall be holden at the chief Town in the County, or such other Place and at such Time as shall be agreed on between the Sheriff and the Party delivering the Writ to him; and the said Writ of Inquiry may be made returnable and be returned on any Day certain in Term or in Vacation to be named in such Writ, and 10 upon the Return thereof, and without any Rule for Judgment thereon, the Costs may be taxed, and Judgment signed and Execution issued forthwith, unless the Sheriff or other Officer before whom such Writ shall be executed, shall certify under his Hand upon such Writ that Judgment ought not to be signed until the Defendant 15 or Plaintiff shall have had an Opportunity to apply to the Court or a Judge to set aside the Execution of such Writ of Inquiry, or unless the Court or Judge shall think fit to order the Judgment to be stayed until a Day to be named in such Order: Provided that where a Writ of Inquiry shall have been executed before a Judge 20 the Proceedings from the finding to issuing Execution shall be the same as in the Case of ordinary Trials at Nisi Prius.

Inquiries
may be
directed to
take place
before
Master of
the Court.
16 & 17 Vict.
c. 113. s. 101.
19 & 20 Vict.
c. 102. s. 99.

121. It shall be lawful for the Court or a Judge, instead of a Writ of Inquiry to the Sheriff to ascertain the Amount of Damages, to direct that the Amount for which final Judgment shall be marked 25 shall be ascertained by the Master of the Court, and thereupon such Damages shall be ascertained by the Master in like Manner as such Damages are ascertained under a Writ of Inquiry by the Sheriff; and for such Purpose it shall be the Duty of the Sheriff of the County of the City of Dublin to summon Jurors to attend before the 30 said Masters, who shall have the like Jurisdiction and Authority as have been heretofore exercised by Sheriffs in holding such Inquiries; provided always, that whenever there is any such Trial by Jury Twelve Jurymen shall be empannelled and sworn to give their Verdict according to the Evidence; and it shall be lawful 35 for the Master to adjourn such Inquiry from Time to Time as Occasion may require; and the Master shall indorse on the Rule or Order of Reference the Finding of the said Jury, and shall deliver the same to the Plaintiff, and such and the like Proceedings may thereupon be had as to Taxation of Costs, signing Judgment, and 40 otherwise, as upon a Finding of a Jury upon a Writ of Inquiry to the Sheriff: Provided always, that in all Cases of Writs of Inquiry it shall be lawful for the Court or a Judge to order that they shall be executed before a Judge sitting at Nisi Prius for the Trial of Causes,

Inquiries
may be
directed to

Causes, either in the consolidated Nisi Prius Court, or at the After Sittings or Assizes, as such Court or Judge shall in their or his Discretion direct, and for that Purpose to enter a Suggestion upon the Record whenever the Trial is ordered to take place in a County
 5 other than that in which the Venue is laid.

And with reference to Discovery, be it enacted as follows :

Discovery.

122. Upon Motions founded upon Affidavits, it shall be lawful for either Party, with Leave of the Court or a Judge, to make Affidavits in answer to the Affidavits of the opposite Party, upon
 10 any new Matter arising out of such Affidavits, subject to all such General Orders as shall hereafter be made respecting such Affidavits.

Discovery.
 Affidavits on new Matter.
 17 & 18 Vict.
 c. 125. s. 45.

123. Upon the Hearing of any Motion it shall be lawful for the Court or Judge, at their or his Discretion, and upon such Terms as they or he shall think reasonable, from Time to Time to order
 15 such Documents as they or he may think fit to be produced, and such Witnesses as they or he may think necessary to appear, and be examined vivâ voce either before such Court or Judge or before the Master, and upon hearing such Evidence, or reading the Report of such Master, to make such Rule or Order as may be just.

Power to Court or Judge to direct oral Examination of Witnesses.
 17 & 18 Vict.
 c. 125. s. 46.

20 124. The Court or Judge may, by such Rule or Order or any subsequent Rule or Order, command the Attendance of the Witnesses named therein for the Purpose of being examined, or the Production of any Writings or other Documents to be mentioned in such Rule or Order ; and such Rule or Order shall be proceeded upon
 25 in the same Manner, and shall have the same Force and Effect as a Rule of the Court under an Act passed in the Session of Parliament holden in the Third and Fourth Years of the Reign of Her present Majesty, Chapter One hundred and five, intituled “An Act for
 “ abolishing Arrest on Mesne Process in Civil Actions except in
 30 “ certain Cases for extending the Remedies of Creditors against the “ Property of Debtors ; and for the further Amendment of the Law, “ and the better Advancement of Justice in Ireland ;” and it shall be lawful for the Court, or Judge, or Master to adjourn the Examination from Time to Time as Occasion may require ; and the
 35 Proceedings upon such Examination shall be conducted and the Depositions taken down as nearly as may be in the Mode now in use with respect to the vivâ voce Examinations of Witnesses under the last-mentioned Act.

Proceedings before and upon such Examination
 17 & 18 Vict.
 c. 125. s. 47.

3 & 4 Vict.
 c. 105.

125. Any Party to any Civil Action or other Civil Proceeding in
 40 any of the Superior Courts requiring the Affidavit of a Person who
 [48.] E refuses

Examination of Person who refuses

to make an Affidavit.
17 & 18 Vict.
c. 125. s. 48.

refuses to make an Affidavit, may apply for an Order requiring such Person to appear and be examined upon Oath before a Judge or Master, to whom it may be most convenient to refer such Examination, as to the Matters concerning which he has refused to make an Affidavit; and the Court or a Judge may, if they or he think fit, 5 make such Order for the Attendance of such Person before the Person therein appointed to take such Examination, for the Purpose of being examined as aforesaid, and for the Production of any Writings or Documents to be mentioned in such Order, and may therein impose such Terms as to such Examination, and the Costs of the 10 Application and Proceedings thereon, as they or he shall think just.

Proceedings upon Order for Examination.

17 & 18 Vict.
c. 125. s. 49.

126. Such Order shall be proceeded upon in like Manner as an Order made under the herein-before mentioned Act passed in the Session of Parliament holden in the Third and Fourth Years of the 15 Reign of Her present Majesty, and the Examination thereon shall be conducted, and the Depositions taken down and returned, as nearly as may be in the Mode now used on *vivâ voce* Examinations under the said Act of Parliament.

Discovery of Documents.

17 & 18 Vict.
c. 125. s. 50.

127. Upon the Application of either Party to any Cause or other 20 Civil Proceeding in any of the Superior Courts, upon an Affidavit by such Party, or his Attorney or Agent, or in the Case of a Body Corporate of their Attorney or Agent, of his Belief that any Document to the Production of which he is entitled for the Purpose of Discovery or otherwise, is in the Possession or Power of the opposite Party, it 25 shall be lawful for the Court or Judge to order that the Party against whom such Application is made, or if such Party is a Body Corporate that some Officer to be named of such Body Corporate, shall answer on Affidavit stating what Documents he or they has or have in his or their Possession or Power relating to the Matters in Dispute, or 30 what he knows as to the Custody they or any of them are in, and whether he or they objects or object (and if so, on what Grounds,) to the Production of such as are in his or their Possession or Power; and upon such Affidavit being made the Court or Judge may make such further Order thereon as shall be just. 35

Power to deliver written Interrogatories to opposite Party.

17 & 18 Vict.
c. 125. s. 51.

128. In all Causes in any of the Superior Courts, by Order of the Court or a Judge, the Plaintiff may, with the Declaration, and the Defendant may, with the Plea, or either of them, by Leave of the Court or a Judge, may at any other Time, deliver to the opposite Party or his Attorney (provided such Party, if not a Body Corporate, would 40 be liable to be called and examined as a Witness upon such Matter) Interrogatories in Writing upon any Matter as to which Discovery may be

be sought, and require such Party, or in the Case of a Body Corporate any of the Officers of such Body Corporate, within Ten Days, to answer the Questions in Writing by Affidavit to be sworn and filed in the ordinary Way; and any Party or Officer omitting, without just Cause, sufficiently to answer all Questions as to which a Discovery may be sought within the above Time, or such extended Time as the Court or a Judge shall allow, shall be deemed to have committed a Contempt of the Court, and shall be liable to be proceeded against accordingly.

- 10 **129.** The Application for such Order shall be made upon an Affidavit of the Party proposing to interrogate, and his Attorney or Agent, or, in the Case of a Body Corporate of their Attorney or Agent, stating that the Deponents or Deponent believe or believes that the Party proposing to interrogate, whether Plaintiff or Defendant, will derive
 15 material Benefit in the Cause from the Discovery which he seeks, that there is good Cause of Action or Defence upon the Merits, and, if the Application be made on the Part of the Defendant, that the Discovery is not sought for the Purpose of Delay: Provided, that where it shall happen from unavoidable Circumstances that the
 20 Plaintiff or Defendant cannot join in such Affidavit, the Court or Judge may, if they or he think fit, upon an Affidavit of such Circumstances, allow and order that the Interrogatories may be delivered without such Affidavit.

Affidavits by Party proposing to interrogate or his Attorney. 17 & 18 Vict. c. 125. s. 52.

- 130.** In case of Omission, without just Cause, to answer sufficiently
 25 such written Interrogatories, it shall be lawful for the Court or a Judge, at their or his Discretion, to direct an oral Examination of the interrogated Party, as to such Points as they or he may direct, before a Judge or Master; and the Court or Judge may, by such Rule or Order, or any subsequent Rule or Order, command the
 30 Attendance of such Party or Parties before the Person appointed to take such Examination, for the Purpose of being orally examined as aforesaid, or the Production of any Writings or other Documents to be mentioned in such Rule or Order, and may impose therein such Terms as to such Examination, and the Costs of the Application
 35 and of the Proceedings thereon, and otherwise, as to such Court or Judge shall seem just.

Oral Examination of Parties, when to be allowed. 17 & 18 Vict. c. 125. s. 53.

- 131.** Such Rule or Order shall have the same Force and Effect and may be proceeded upon in like Manner as an Order made under the said herein-before mentioned Act passed in the Session of Parliament holden in the Third and Fourth Years of the Reign of Her
 40 present Majesty.

Proceedings upon such Rule or Order. 17 & 18 Vict. c. 125. s. 54.

Depositions upon such Examinations to be returned to Master's Office.

17 & 18 Vict. c. 125. s. 55.
3 & 4 Vict. c. 105.

132. Whenever by virtue of this Act an Examination of any Witness or Witnesses has been taken before a Judge of One of the said Superior Courts, or before a Master, the Depositions shall be returned to and kept in the Master's Office of the Court in which the Proceedings are pending; and Office Copies of such Depositions 5 may be given out, and the Depositions may be otherwise used in the same Manner as in the Case of Depositions taken under the herein-before mentioned Act passed in the Third and Fourth Years of the Reign of Her present Majesty.

Examiner may make Report to the Court.

17 & 18 Vict. c. 125. s. 56.

133. It shall be lawful for every Judge or Master named in any such Rule or Order as aforesaid for taking Examinations under this Act, and he is hereby required to make, if need be, a special Report 10 to the Court in which such Proceedings are pending, touching such Examination, and the Conduct or Absence of any Witness or other Person thereon or relating thereto; and the Court is hereby authorized to institute such Proceedings and make such Order and Orders 15 upon such Report as Justice may require, and as may be instituted and made in any Case of Contempt of the Court.

Costs of Rule and Examination to be in the Discretion of the Court.

17 & 18 Vict. c. 125. s. 57.

134. The Costs of every Application for any Rule or Order to be made for the Examination of Witnesses by virtue of this Act, 20 and of the Rule or Order and Proceedings thereon, shall be in the Discretion of the Court or Judge by whom such Rule or Order is made.

Mandamus and Injunction.

And with respect to Mandamus and Injunction, be it enacted as follows : 25

Action for Mandamus to enforce the Performance of Duties.

17 & 18 Vict. c. 125. s. 68.

135. The Plaintiff in any Action in any of the Superior Courts, except Replevin and Ejectment, may endorse upon the Writ and Copy to be served a Notice that the Plaintiff intends to claim a Writ of Mandamus; and the Plaintiff may thereupon claim in the Declaration, either together with any other Demand which may 30 now be enforced in such Action or separately, a Writ of Mandamus commanding the Defendant to fulfil any Duty in the Fulfilment of which the Plaintiff is personally interested.

Declaration in Action for Mandamus.

17 & 18 Vict. c. 125. s. 69.

136. The Declaration in such Action shall set forth sufficient Grounds upon which such Claim is founded, and shall set forth that 35 the Plaintiff is personally interested therein, and that he sustains or may sustain Damage by the Nonperformance of such Duty, and that Performance thereof has been demanded by him and refused or neglected.

137. The

137. The Pleadings and other Proceedings in any Action in which a Writ of Mandamus is claimed shall be the same in all respects, as nearly as may be, and Costs shall be recoverable by either Party as in an ordinary Action for the Recovery of Damages.

Proceedings upon Claim for Mandamus.
17 & 18 Vict. c. 125. s. 70.

138. In case Judgment shall be given for the Plaintiff that a Mandamus do issue, it shall be lawful for the Court in which such Judgment is given, if it shall think fit, besides issuing Execution in the ordinary Way for the Costs and Damages, also to issue a peremptory Writ of Mandamus to the Defendant, commanding him forthwith to perform the Duty to be enforced.

Judgment and Execution.
17 & 18 Vict. c. 125. s. 71.

139. The Writ need not recite the Declaration or other Proceedings, or the Matter therein stated, but shall simply command the Performance of the Duty, and in other respects shall be in the Form of an ordinary Writ of Execution, except that it shall be directed to the Party and not to the Sheriff, and may be issued in Term or Vacation, and returnable forthwith; and no Return thereto, except that of Compliance, shall be allowed, but Time to return it may, upon sufficient Grounds, be allowed by the Court or a Judge, either with or without Terms.

Form of Peremptory Writ.
17 & 18 Vict. c. 125. s. 72.

140. The Writ of Mandamus so issued as aforesaid shall have the same Force and Effect as a peremptory Writ of Mandamus issued out of the Court of Queen's Bench, and in case of Disobedience may be enforced by Attachment.

Effect of Writ of Mandamus and Proceedings to enforce it.
17 & 18 Vict. c. 125. s. 73.

141. The Court may, upon Application by the Plaintiff, besides or instead of proceeding against the disobedient Party by Attachment, direct that the Act required to be done may be done by the Plaintiff, or some other Person appointed by the Court, at the Expense of the Defendant; and upon the Act being done, the Amount of such Expense may be ascertained by the Court, either by Writ of Inquiry or Reference to a Master, as the Court or a Judge may order; and the Court may order Payment of the Amount of such Expenses and Costs, and enforce Payment thereof by Execution.

The Court may order the Act to be done at the Expense of the Defendant.
17 & 18 Vict. c. 125. s. 74.

142. Nothing herein contained shall take away the Jurisdiction of the Court of Queen's Bench to grant Writs of Mandamus; nor shall any Writ of Mandamus issued out of that Court be invalid by reason of the Right of the Prosecutor to proceed by Action for Mandamus under this Act.

Prerogative Writ of Mandamus preserved.
17 & 18 Vict. c. 125. s. 75.

Proceedings
for Preroga-
tive Writ of
Mandamus.
17 & 18 Vict.
c. 125. s. 76.

143. Upon Application by Motion for any Writ of Mandamus in the Court of Queen's Bench, the Rule may in all Cases be absolute in the first instance if the Court shall think fit; and the Writ may bear Teste on the Day of its issuing, and may be made returnable forthwith, whether in Term or in Vacation, but Time may be allowed to return it by the Court or a Judge either with or without Terms.

Proceedings
on Preroga-
tive Writ of
Mandamus.
17 & 18 Vict.
c. 125. s. 77.
Specific
Delivery of
Chattels.
17 & 18 Vict.
c. 125. s. 78.

144. The Provisions of this Act, so far as they are applicable, shall apply to the Pleadings and Proceedings upon a Prerogative Writ of Mandamus issued by the Court of Queen's Bench.

10

145. The Court or a Judge shall have Power, if they or he think fit so to do, upon the Application of the Plaintiff in any Action for the Detention of any Chattel, to order that Execution shall issue for the Return of the Chattel detained, without giving the Defendant the Option of retaining such Chattel upon paying the Value assessed, and that if the said Chattel cannot be found, and unless the Court or a Judge should otherwise order, the Sheriff shall distrain the Defendant by all his Lands and Chattels in the said Sheriff's Bailiwick, till the Defendant render such Chattel, or, at the Option of the Plaintiff, that he cause to be made of the Defendant's Goods the assessed Value of such Chattel; provided that the Plaintiff shall, either by the same or a separate Writ of Execution, be entitled to have made of the Defendant's Goods the Damages, Costs, and Interest in such Action.

15

20

Claim of
Writ of
Injunction.
17 & 18 Vict.
c. 125. s. 79.

146. In all Cases of Breach of Contract or other Injury, where the Party injured is entitled to maintain and has brought an Action, he may, in like Case and Manner as herein-before provided, with respect to Mandamus, claim a Writ of Injunction against the Repetition or Continuance of such Breach of Contract or other Injury, or the Committal of any Breach of Contract or Injury of a like Kind, arising out of the same Contract or relating to the same Property or Right; and he may also in the same Action include a Claim for Damages or other Redress.

25

30

Form of
Writ of
Summons
and Endorse-
ment there-
on.
17 & 18 Vict.
c. 125. s. 80.

147. The Writ of Summons in such Action shall be in the same Form as the Writ of Summons in any personal Action, but on every such Writ and Copy thereof there shall be endorsed a Notice that in default of Appearance the Plaintiff may, besides proceeding to Judgment and Execution for Damages and Costs, apply for and obtain a Writ of Injunction.

35

Form of
Proceedings

148. The Proceedings in such Action shall be the same as nearly as may be, and subject to the like Control, as the Proceedings

40

ceedings in an Action to obtain a Mandamus under the Provisions herein-before contained; and in such Action Judgment may be given that the Writ of Injunction do or do not issue, as Justice may require; and in case of Disobedience, such Writ of Injunction
 5 may be enforced by Attachment by the Court or by a Judge.

and of Judgment.
 17 & 18 Vict.
 c. 125. s. 81.

149. It shall be lawful for the Plaintiff at any Time after the Commencement of the Action, and whether before or after Judgment, to apply ex parte to the Court or a Judge for a Writ of Injunction to restrain the Defendant in such Action from the
 10 Repetition or Continuance of the wrongful Act or Breach of Contract complained of, or the Committal of any Breach of Contract or Injury of a like Kind arising out of the same Contract, or relating to the same Property or Right; and such Writ may be granted or denied by the Court or Judge upon such Terms as to the Duration
 15 of the Writ, keeping an Account, giving Security, or otherwise, as to such Court or Judge shall seem reasonable and just; and in case of Disobedience such Writ may be enforced by Attachment by the Court or by a Judge: Provided always, that any Order for a Writ of Injunction made by a Judge, or any Writ issued by virtue
 20 thereof, may be discharged or varied or set aside by the Court, on Application made thereto by any Party dissatisfied with such Order.

Writ of Injunction may be applied for at any Stage of the Cause.
 17 & 18 Vict.
 c. 125. s. 82.

150. In all Cases in which a Writ of Mandamus or of Injunction is issued under the Provisions of this Act, such Writ shall,
 25 unless otherwise ordered by the Court or Judge, in addition to the Matter directed to be inserted therein, command the Defendant to pay to the Plaintiff the Costs of preparing, issuing, and serving such Writ; and Payment of such Costs may be enforced in the same
 Manner as Costs payable under a Rule of Court are now by Law
 30 enforceable.

Costs of Writs of Mandamus and Injunction may be included in Writs.
 23 & 24 Vict.
 c. 126. s. 32.

And with respect to Notice of Trial and Inquiry and Countermand, be it enacted as follows:

Notice of Trial, Inquiry, and Countermand.

151. Ten Days Notice of Trial or Inquiry shall be given, and shall be sufficient in all Cases, whether at Bar or Nisi Prius, in
 35 Town or Country, unless otherwise ordered by the Court or a Judge.

Time for Notice of Trial and Inquiry.
 15 & 16 Vict.
 c. 76. s. 97.

152. A Countermand of Notice of Trial shall be given Four clear Days before the Time mentioned in the Notice of Trial, unless short Notice of Trial has been given, and then Two clear Days
 40 before the Time mentioned in the Notice of Trial, unless otherwise ordered by the Court or Judge, or by Consent.

Notice of Countermand.
 15 & 16 Vict.
 c. 70. s. 98.

Costs of the Day.
15 & 16 Vict.
c. 76. s. 99.

153. A Rule for Costs of the Day for not proceeding to Trial pursuant to Notice, or not countermanding in sufficient Time, may be drawn up on Affidavit without Motion.

Proceeding where Plaintiff neglects to bring on the Cause to be tried.
15 & 16 Vict.
c. 76. s. 101.

154. Where any Issue is or shall be joined in any Cause, and the Plaintiff has neglected or shall neglect to bring such 5 Issue on to be tried, that is to say, in Town Causes where Issue has been or shall be joined in or in the Vacation before any Term, for instance, Hilary Term, and the Plaintiff has neglected or shall neglect to bring the Issue on to be tried during or before the following Term and Vacation, for instance, Easter Term and 10 Vacation, and in Country Causes where Issue has been or shall be joined in or in the Vacation before Hilary or Trinity Term, and the Plaintiff has neglected or shall neglect to bring the Issue on to be tried at or before the Second Assizes following such Term, or if Issue has been or shall be joined in or in the Vacation before 15 Easter or Michaelmas Term, then, if the Plaintiff has neglected or shall neglect to bring the Issue on to be tried at or before the First Assizes after such Term, whether the Plaintiff shall in the meantime have given Notice of Trial or not, the Defendant may give *Twenty Days* Notice to the Plaintiff to bring the Issue on to be 20 tried at the Sittings or Assizes, as the Case may be, next after the Expiration of the Notice; and if the Plaintiff afterwards neglects to give Notice of Trial for such Sittings or Assizes, or to proceed to Trial in pursuance of the said Notice given by the Defendant, the Defendant may suggest on the Record that the Plaintiff has failed 25 to proceed to Trial, although duly required so to do (which Suggestion shall not be traversable, but only be subject to be set aside if untrue), and may sign Judgment for his Costs: Provided, that the Court or a Judge shall have Power to extend the Time for proceeding to Trial with or without Terms. 30

Nisi Prius Record.

Nisi Prius ..
Record not to be sealed or passed.
15 & 16 Vict.
c. 76. s. 102.

And with respect to the Nisi Prius Record, be it enacted as follows:

155. The Record of Nisi Prius shall not be sealed or passed, but may be delivered to the proper Officer of the Court in which the Cause is to be tried, to be by him entered and remain until 35 disposed of.

Juries and Jury Process.

Courts or a Judge to issue Precept to summon Jurors.

And with respect to Juries, be it enacted as follows:

156. It shall be lawful for the several Courts, or any Judge thereof, save where it is by any other Act otherwise provided, at any Time to issue a Precept or Precepts to summon Jurors for 40 disposing of the Business pending in such Courts and in the consolidated Nisi Prius Court, and to direct the Time and Place for which such Jurors shall be summoned, and all such other Matters as to the Court or Judge shall seem requisite.

157. A

157. A Panel of the Jury or Speccial Jury, as the Case may be, by whom the Cause is to be tried shall be annexed to the Nisi Prius Record.

Panel of Jury to be annexed to Nisi Prius Record.

158. The Plaintiff in any Action except Replevin, and the Defendant in Replevin, shall be entitled to have the Cause tried by a Special Jury, upon giving Notice in Writing to the Defendant, or Plaintiff, as the Case may be, at such Time as would be necessary for a Notice of Trial, of his Intention that the Cause shall be so tried; and the Plaintiff in an Action of Replevin, and the Defendant in other Actions, shall be so entitled, on giving the like Notice within the Time limited for obtaining a Rule for a Special Jury by a General Order to be made as herein-after provided: Provided that the Court or a Judge may at any Time order that a Cause shall be tried by a Special Jury upon such Terms as they or he shall think fit.

Mode of obtaining a Special Jury. 15 & 16 Vict. c. 76. s. 109.

159. Where the Defendant in any Case, or the Plaintiff in Replevin, gives Notice of his Intention to try the Cause by a Special Jury, the Court or a Judge, if satisfied that such Notice is given for the Purpose of Delay, may order that the Cause be tried by a Common Jury, or make such other Order as to the Trial of the Cause as such Court or Judge shall think fit.

Remedy for Delay by Notice of Trial by Special Jury. 15 & 16 Vict. c. 76. s. 111.

160. Where Notice has been given to try by Special Jury, either Party may, *Eight Days* before the First Day of the Sittings or Commission Day of the Assizes, give Notice to the Sheriff that such Cause is to be tried by a Special Jury; and in case no such Notice be given no Special Jury need be summoned or attend, and the Cause may be tried by a Common Jury unless otherwise ordered by the Court or Judge.

Notice to Sheriff of Trial by Special Jury. 15 & 16 Vict. c. 76. s. 112.

161. In all Cases where Notice is not given to the Sheriff that the Cause is to be tried by a Special Jury, and by reason thereof a Special Jury is not summoned or does not attend, the Cause may be tried by a Common Jury, to be taken from the Panel of Common Jurors, in like Manner as if no Proceedings had been had to try the Cause by a Special Jury.

If Special Jury not summoned, Cause to be tried by a Common Jury. 15 & 16 Vict. c. 76. s. 113.

162. In all Actions in which any Order shall be made for the Purpose of changing the Venue it shall be lawful for the Court or a Judge to provide for a View out of the County in which the Action is to be tried; and for that Purpose to make such Orders, directed to the Sheriffs of the different Counties, as such Court or Judge shall think right.

Court or Judge may provide for View out of the County, or County of City, in which Action is to be tried.

163. Either Party shall be at liberty to apply to the Court or a Judge for a Rule or Order for the Inspection by the Jury, or by

Inspection by Jury of Parties or Witnesses.

17 & 18 Vict. himself or by his Witnesses, of any Real or Personal Property the
c. 125. s. 58. Inspection of which may be material to the proper Determination of
the Question in dispute; and it shall be lawful for the Court or a
Judge, if they or he think fit, to make such Rule or Order, upon
such Terms as to Costs and otherwise as such Court or Judge may 5
direct.

Rule or
Order for
summoning
Jury.
17 & 18 Vict.
c. 125. s. 59. **164.** The several Courts, or any Judge thereof, may make all
such Rules or Orders upon the Sheriff or other Person as may be
necessary to procure the Attendance of a Special or Common Jury
for the Trial of any Cause or Matter depending in such Courts, at 10
such Time and Place and in such Manner as they or he may
think fit.

Defendant's
Right to try,
upon De-
fault of the
Plaintiff,
preserved.
15 & 16 Vict.
c. 76. s. 116. **165.** Nothing herein contained shall affect the Right of a Defen-
dant to take down a Cause for Trial, after Default by the Plaintiff
to proceed to Trial, according to the Course and Practice of the 15
Court; and if Records are entered for Trial both by the Plaintiff
and the Defendant, the Defendant's Record shall be treated as
standing next in Order after the Plaintiff's Record in the List of
Causes, and the Trial of the Cause shall take place accordingly.

Two Judges
may sit at
the same
Time for
Trial of
Causes
pending in
the same
Court.
17 & 18 Vict.
c. 125. s. 2. **166.** It shall be lawful for any One of the Judges of any of the 20
Superior Courts at Dublin, at the Request of the Lord Chief
Justice or Lord Chief Baron, to try the Causes entered for Trial
at Nisi Prius in Dublin in any of the Courts, on the same Days on
which the said Lord Chief Justice or Lord Chief Baron, or any
other Judge of the same Court, shall be sitting to try Causes at 25
Dublin, so that the Trial of Two Causes may be proceeded with
at the same Time; and all Jurors, Witnesses, and other Persons,
who may have been summoned or required to attend at or for the
Trial of any Cause before the said Lord Chief Justice or Lord Chief
Baron, as the Case may be, shall give their Attendance at and for 30
the Trial thereof before such other Judge as may be sitting to try
the same by virtue of this Act; and it shall be lawful for the
Registrars and other Officers of the Lord Chief Justice or Lord
Chief Baron, as the Case may be, to appoint from Time to Time
fit and proper Persons, to be approved by the said Lord Chief 35
Justice or Lord Chief Baron, to attend for them and on their
Behalf respectively before such Judge; and the Trial of every
Cause which shall be so had by virtue of this Act shall, if
necessary, be entered of Record as having been had before the
Judge by whom such Cause in fact was tried. 40

Power to the
Court or
Judge in
certain **167.** In any Action when the Plaintiff's Claim is for a Debt or
liquidated Demand in Money not exceeding Twenty Pounds, or
when such Claim, though it originally exceeded Twenty Pounds,
is

is reduced by Payment into Court, Payment, an admitted Set-off, or otherwise, to a Sum not exceeding Twenty Pounds, it shall be lawful for the Court or a Judge, on the Application of either Party, after Issue joined, in their or his Discretion, to order that the Cause
 5 be tried before any Chairman of Quarter Sessions of any County, or the Recorder of any Borough, as the Court or Judge shall direct, and thereupon the Plaintiff shall lodge with the Clerk of the Peace of such County, or the proper Officer of such Borough Court, such Order, and the Issue; and the Judge before whom the same shall
 10 be directed to be tried shall appoint a Day for the hearing of the Cause, Notice whereof shall be sent, through the Post Office or otherwise, to both Parties or their Attorneys; and after such Hearing the Clerk of the Peace or proper Officer shall certify the Result to the Master's Office of such Superior Court, and Judgment in
 15 accordance with such Certificate may be signed in such Superior Court.

And with respect to Arbitration, be it enacted as follows:

168. If it be made appear, at any Time after the issuing of the Writ, to the Satisfaction of the Court or a Judge, upon the Applica-
 20 tion of either Party, that the Matter in dispute consists wholly or in part of Matters of mere Account which cannot conveniently be tried in the ordinary Way, it shall be lawful for such Court or Judge, upon such Application, if they or he think fit, to decide such Matter in a summary Manner, or to order that such Matter, either
 25 wholly or in part, be referred to an Arbitrator appointed by the Parties, or to an Officer of the Court, upon such Terms as to Costs and otherwise as such Court or Judge shall think reasonable; and the Decision or Order of such Court or Judge, or the Award or Certificate of such Referee, shall be enforceable by the same Process as the
 30 Finding of a Jury upon the Matter referred.

169. If it shall appear to the Court or a Judge that the Allow-
 ance or Disallowance of any particular Item or Items in such Account depends upon a Question of Law fit to be decided by the Court, or upon a Question of Fact to be decided by a Jury, or by a
 35 Judge, upon the Consent of both Parties as herein-before provided, it shall be lawful for such Court or Judge to direct a Case to be stated, or an Issue or Issues to be tried; and the Decision of the Court upon such Case, and the Finding of the Jury or Judge upon such Issue or Issues, shall be taken and acted upon by the Arbitrator
 40 as conclusive.

170. It shall be lawful for the Arbitrator, upon any compulsory Reference under this Act, or upon any Reference by Consent of Parties, where the Submission is or may be made a Rule or Order of any of the Superior Courts of Law or Equity at Dublin, if he
 [48.] shall

Cases to direct Trial to take place before Chairman or Recorder.

19 & 20 Vict. c. 108. s. 26.

Arbitration.

Power to Court or Judge to direct Arbitration before Trial.

17 & 18 Vict. c. 125. s. 3.
 21 & 22 Vict. c. 74. s. 5.

Special Case may be stated, and Question of Fact tried.

17 & 18 Vict. c. 125. s. 4.

Arbitrator may state special Case.
 17 & 18 Vict. c. 125. s. 5.

shall think fit, and if it is not provided to the contrary, to state his Award, as to the whole or any Part thereof, in the Form of a special Case for the Opinion of the Court; and when an Action is referred Judgment, if so ordered, may be entered according to the Opinion of the Court.

5

Power to
Judge to
direct Ar-
bitration at
Time of
Trial when
Issues of
Fact left to
his Decision.
17 & 18 Vict.
c. 125. s. 6.

171. If upon the Trial of any Issue of Fact by a Judge under this Act it shall appear to the Judge that the Questions arising thereon involve Matter of Account which cannot conveniently be tried before him, it shall be lawful for him, at his Discretion, to order that such Matter of Account be referred to an Arbitrator appointed by the Parties, or to an Officer of the Court, upon such Terms as to Costs and otherwise as such Judge shall think reasonable; and the Award or Certificate of such Referee shall have the same Effect as herein-before provided as to the Award or Certificate of a Referee before Trial; and it shall be competent for the Judge to proceed to try and dispose of any other Matters in question, not referred, in like Manner as if no Reference had been made.

10

15

Proceedings
before and
Power of
such Arbi-
trator.
17 & 18 Vict.
c. 125. s. 7.

172. The Proceedings upon any such Arbitration as aforesaid shall, except otherwise directed hereby, or by the Submission or Document authorizing the Reference, be conducted in like Manner, and subject to the same Rules and Enactments as to the Power of the Arbitrator and of the Court, the Attendance of Witnesses, the Production of Documents enforcing or setting aside the Award, and otherwise, as upon a Reference made by Consent under a Rule of Court or Judge's Order.

25

Power to
send back to
Arbitrator.
17 & 18 Vict.
c. 125. s. 8.

173. In any Case where Reference shall be made to Arbitration as aforesaid the Court or a Judge shall have Power at any Time, and from Time to Time, to remit the Matters referred, or any or either of them, to the Re-consideration and Re-determination of the said Arbitrator, upon such Terms as to Costs and otherwise as to the said Court or Judge may seem proper.

30

Application
to set aside
the Award.
17 & 18 Vict.
c. 125. s. 9.

174. All Applications to set aside any Award made on a compulsory Reference under this Act shall and may be made within the first Seven Days of the Term next following the Publication of the Award to the Parties, whether made in Vacation or Term; and if no such Application is made, or if no Rule is granted thereon, or if any Rule granted thereon is afterwards discharged, such Award shall be final between the Parties.

35

Enforcing
of Awards
within
Period for
setting them
aside.
17 & 18 Vict.
c. 125. s. 10.

175. Any Award made on a compulsory Reference under this Act may, by Authority of the Court or a Judge, on such Terms as to them or him may seem reasonable, be enforced at any Time after Seven Days from the Time of Publication, notwithstanding that the Time for moving to set it aside has not elapsed.

40

180. Whenever

176. Whenever the Parties to any Deed or Instrument in Writing to be hereafter made or executed, or any of them, shall agree that any then existing or future Differences between them or any of them shall be referred to Arbitration, and any One or more of the Parties so agreeing, or any Person or Persons claiming through or under him or them, shall nevertheless commence any Action at Law or Suit in Equity against the other Party or Parties, or any of them, or against any Person or Persons claiming through or under him or them in respect of the Matters so agreed to be referred, or any of them, it shall be lawful for the Court in which the Action or Suit is brought, or a Judge thereof, on Application by the Defendant or Defendants, or any of them, after Appearance and before Plea or Answer, upon being satisfied that no sufficient Reason exists why such Matters cannot be or ought not to be referred to Arbitration according to such Agreement as aforesaid, and that the Defendant was at the Time of the bringing of such Action or Suit, and still is, ready and willing to join and concur in all Acts necessary and proper for causing such Matters so to be decided by Arbitration, to make a Rule or Order staying all Proceedings in such Action or Suit, on such Terms as to Costs and otherwise as to such Court or Judge may seem fit: Provided always, that any such Rule or Order may at any Time afterwards be discharged or varied as Justice may require.

If Action commenced by One Party after all have agreed to Arbitration, Court or Judge may stay Proceedings. 17 & 18 Vict. c. 125. s. 11.

177. If in any Case of Arbitration the Document authorizing the Reference provide that the Reference shall be to a single Arbitrator, and all the Parties do not after Differences have arisen concur in the Appointment of an Arbitrator, or if any appointed Arbitrator refuse to act, or become incapable of acting, or die, and the Terms of such Document do not show that it was intended that such Vacancy should not be supplied, and the Parties do not concur in appointing a new one, or if where the Parties or Two Arbitrators are at liberty to appoint an Umpire or Third Arbitrator such Parties or Arbitrators do not appoint an Umpire or Third Arbitrator, or if any appointed Umpire or Third Arbitrator refuse to act, or become incapable of acting, or die, and the Terms of the Document authorizing the Reference do not show that it was intended that such a Vacancy should not be supplied, and the Parties or Arbitrators respectively do not appoint a new one, then in every such Instance any Party may serve the remaining Parties or the Arbitrators, as the Case may be, with a written Notice to appoint an Arbitrator, Umpire, or Third Arbitrator respectively; and if within Seven clear Days after such Notice shall have been served no Arbitrator, Umpire, or Third Arbitrator be appointed, it shall be lawful for the Court, or any Judge of any of the Superior Courts of

On Failure of Parties or Arbitrators, Court or Judge may appoint single Arbitrator or Umpire. 17 & 18 Vict. c. 125. s. 12.

Law or Equity at Dublin, upon Application of the Party having served such Notice as aforesaid, to appoint an Arbitrator, Umpire, or Third Arbitrator, as the Case may be, and such Arbitrator, Umpire, and Third Arbitrator respectively shall have the like Power to act in the Reference and make an Award as if he had been 5 appointed by Consent of all Parties.

When Reference is to Two Arbitrators, and one Party fail to appoint, other Party may appoint Arbitrator to act alone.

17 & 18 Vict. c. 125. s. 13.

178. When the Reference is or is intended to be to Two Arbitrators, One appointed by each Party, it shall be lawful for either Party, in the Case of the Death, Refusal to act, or Incapacity of any Arbitrator appointed by him, to substitute a new Arbitrator, unless 10 the Document authorizing the Reference show that it was intended that the Vacancy should not be supplied; and if on such a Reference One Party fail to appoint an Arbitrator, either originally or by way of Substitution as aforesaid, for Seven clear Days after the other Party shall have appointed an Arbitrator, and shall have 15 served the Party so failing to appoint with Notice in Writing to make the Appointment, the Party who has appointed an Arbitrator may appoint such Arbitrator to act as sole Arbitrator in the Reference, and an Award made by him shall be binding on both Parties as if the Appointment had been by Consent: Provided, 20 however, that the Court or Judge may revoke such Appointment on such Terms as shall seem just.

Two Arbitrators may appoint Umpire.

17 & 18 Vict. c. 125. s. 14.

179. When the Reference is to Two Arbitrators, and the Terms of the Document authorizing it do not show that it was intended that there should not be an Umpire, or provide otherwise for the 25 Appointment of an Umpire, the Two Arbitrators may appoint an Umpire at any Time within the Period during which they have Power to make an Award, unless they be called upon by Notice as aforesaid to make the Appointment sooner.

Award to be made in Three Months unless Parties or Court enlarge Time.

17 & 18 Vict. c. 125. s. 15.

180. The Arbitrator acting under any such Document or com- 30 pulsory Order of Reference as aforesaid, or under any Order referring the Award back, shall make his Award under his Hand, and (unless such Document or Order respectively shall contain a different Limit of Time) within *Three Months* after he shall have been appointed, and shall have entered on the Reference, or shall have 35 been called upon to act by a Notice in Writing from any Party, but the Parties may by Consent in Writing enlarge the Term for making the Award; and it shall be lawful for the Superior Court of which such Submission, Document, or Order is or may be made a Rule or Order, or for any Judge thereof, for good Cause to be stated in the 40 Rule or Order for Enlargement, from Time to Time to enlarge the Term for making the Award; and if no Period be stated for the Enlargement

Enlargement in such Consent or Order for Enlargement, it shall be deemed to be an Enlargement for *One Month*; and in any Case where an Umpire shall have been appointed it shall be lawful for him to enter on the Reference in lieu of the Arbitrators, if the latter shall have allowed their Time or their extended Time to expire without making an Award, or shall have delivered to any Party or to the Umpire a Notice in Writing stating that they cannot agree.

181. When any Award made on any such Submission, Document, or Order of Reference as aforesaid directs that Possession of any Lands or Tenements capable of being the Subject of an Action of Ejectment shall be delivered to any Party, either forthwith or at any future Time, or that any such Party is entitled to the Possession of any such Lands or Tenements, it shall be lawful for the Court of which the Document authorizing the Reference is or is made a Rule or Order, or any Judge thereof, to order any Party to the Reference who shall be in possession of any such Lands or Tenements, or any Person in possession of the same claiming under or put in possession by him since the making of the Document authorizing the Reference, to deliver Possession of the same to the Party entitled thereto pursuant to the Award; and such Rule or Order to deliver Possession shall have the Effect of a Judgment in Ejectment against every such Party or Person named in it, and Execution may issue, and Possession shall be delivered by the Sheriff as on a Judgment in Ejectment.

Rule to deliver Possession of Land pursuant to Award to be enforced as a Judgment in Ejectment.
17 & 18 Vict. c. 125. s. 16.

182. Every Agreement or Submission to Arbitration by Consent, whether by Deed or Instrument in Writing not under Seal, may be made a Rule of any One of the Superior Courts of Law or Equity at Dublin, on the Application of any Party thereto, unless such Agreement or Submission contain Words purporting that the Parties intend that it should not be made a Rule of Court; and if in any such Agreement or Submission it is provided that the same shall or may be made a Rule of One in particular of such Superior Courts, it may be made a Rule of that Court only; and if, when there is no such Provision, a Case be stated in the Award for the Opinion of One of the Superior Courts, and such Court be specified in the Award, and the Document authorizing the Reference have not, before the Publication of the Award to the Parties, been made a Rule of Court, such Document may be made a Rule only of the Court specified in the Award; and when in any Case the Document authorizing the Reference is or has been made a Rule or Order of any One of such Superior Courts, no other of such Courts shall have any Jurisdiction to entertain any Motion respecting the Arbitration or Award.

Agreement or Submission in Writing may be made Rule of Court, unless a contrary Intention appear.
17 & 18 Vict. c. 125. s. 17.

Admission of Documents; Proceedings at Trial and Evidence.

Admission of Documents.

15 & 16 Vict. c. 76. s. 117.

And with respect to the Admission of Documents, Proceedings at the Trial, and Evidence, be it enacted as follows :

183. Either Party may call on the other Party by Notice to admit any Document, saving all just Exceptions ; and in case of Refusal or Neglect to admit, the Costs of proving the Document 5 shall be paid by the Party so neglecting or refusing, whatever the Result of the Cause may be, unless at the Trial the Judge shall certify that the Refusal to admit was reasonable ; and no Costs of proving any Document shall be allowed unless such Notice be given, except in Cases where the Omission to give the Notice is, in the 10 Opinion of the Taxing Officer, a Saving of Expense.

Proof of Admissions.
15 & 16 Vict. c. 76. s. 118.

184. An Affidavit of the Attorney in the Cause, or his Clerk, of the due Signature of any Admissions made in pursuance of such Notice, and annexed to the Affidavit, shall be in all Cases sufficient Evidence of such Admissions.

15

Proof of Notice to produce.
15 & 16 Vict. c. 76. s. 119.

185. An Affidavit of the Attorney in the Cause, or his Clerk, of the Service of any Notice to produce, in respect of which Notice to admit shall have been given, and of the Time when it was served, with a Copy of such Notice to produce annexed to such Affidavit, shall be sufficient Evidence of the Service of the Original of such 20 Notice, and of the Time when it was served.

Speeches to the Jury.
17 & 18 Vict. c. 125. s. 18.

186. Upon the Trial of any Cause the Addresses to the Jury shall be regulated as follows : The Party who begins, or his Counsel, shall be allowed, in the event of his Opponent not announcing at 25 the Close of the Case of the Party who begins his Intention to adduce Evidence, to address the Jury a Second Time at the Close of such Case, for the Purpose of summing up the Evidence ; and the Party on the other Side, or his Counsel, shall be allowed to open the Case, and also to sum up the Evidence (if any) ; and the Right 30 to reply shall be the same as at present.

Power to adjourn Trial.

17 & 18 Vict. c. 125. s. 19.

187. It shall be lawful for the Court or Judge, at the Trial of any Cause where they or he may deem it right for the Purposes of Justice, to order an Adjournment for such Time, and subject to such Terms and Conditions as to Costs and otherwise, as they or he 35 may think fit.

Affirmation instead of Oath in certain Cases.
17 & 18 Vict. c. 125. s. 20.

188. If any Person called as a Witness, or required or desiring to make an Affidavit or Deposition, shall refuse or be unwilling from alleged conscientious Motives to be sworn, it shall be lawful for the Court or Judge, or other presiding Officer or Person quali- 40 fied to take Affidavits or Depositions, upon being satisfied of the Sincerity of such Objection, to permit such Person, instead of being sworn,

sworn, to make his or her solemn Affirmation or Declaration in the Words following; videlicet,

‘ I *A.B.* do solemnly, sincerely, and truly affirm and declare, that
 ‘ the taking of any Oath is, according to my Religious Belief,
 5 ‘ unlawful; and I do also solemnly, sincerely, and truly affirm and
 ‘ declare, &c.’

Which solemn Affirmation and Declaration shall be of the same Force and Effect as if such Person had taken an Oath in the usual Form.

- 10 **189.** If any Person making such solemn Affirmation or Declaration shall wilfully, falsely, and corruptly affirm or declare any Matter or Thing which, if the same had been sworn in the usual Form, would have amounted to wilful and corrupt Perjury, every such Person so offending shall incur the same Penalties as by the
 15 Laws and Statutes of this Kingdom are or may be enacted or provided against Persons convicted of wilful and corrupt Perjury.

Persons making a false Affirmation subject to the same Punishment as for Perjury.
 17 & 18 Vict.
 c. 125. s. 21.

- 190.** A Party producing a Witness shall not be allowed to impeach his Credit by general Evidence of bad Character, but he may, in case the Witness shall in the Opinion of the Judge prove
 20 adverse, contradict him by other Evidence, or, by Leave of the Judge, prove that he has made at other Times a Statement inconsistent with his present Testimony; but before such last-mentioned Proof can be given, the Circumstances of the supposed Statement, sufficient to designate the particular Occasion, must be mentioned to
 25 the Witness, and he must be asked whether or not he has made such Statement.

How far a Party may discredit his own Witness.
 17 & 18 Vict.
 c. 125. s. 22.

- 11.** If a Witness, upon Cross-examination as to a former Statement made by him relative to the Subject Matter of the Cause, and inconsistent with his present Testimony, does not distinctly admit
 30 that he has made such Statement, Proof may be given that he did in fact; but before such Proof can be given the Circumstances of the supposed Statement, sufficient to designate the particular Occasion, must be mentioned to the Witness, and he must be asked whether or not he has made such Statement.

Proof of contradictory Statements of adverse Witness.
 17 & 18 Vict.
 c. 125. s. 23.

- 192.** A Witness may be cross-examined as to previous Statements made by him in Writing, or reduced into Writing, relative to the Subject Matter of the Cause without such Writing being shown to him; but if it is intended to contradict such Witness by the Writing, his Attention must, before such contradictory Proof can be
 40 given, be called to those Parts of the Writing which are to be used for the Purpose of so contradicting him: Provided always, that it

Cross-examination as to previous Statements in Writing.
 17 & 18 Vict.
 c. 125. s. 24.

shall be competent for the Judge at any Time during the Trial to require the Production of the Writing for his Inspection, and he may thereupon make such Use of it for the Purposes of the Trial as he shall think fit.

Proof of
previous
Conviction
of a Witness
may be
given.
17 & 18 Vict.
c. 125. s. 25.

193. A Witness in any Cause may be questioned as to whether he has been convicted of any Felony or Misdemeanor, and upon being so questioned, if he either denies the Fact or refuses to answer, it shall be lawful for the opposite Party to prove such Conviction; and a Certificate containing the Substance and Effect only (omitting the formal Part) of the Indictment and Conviction for such Offence, purporting to be signed by the Clerk of the Court or other Officer having the Custody of the Records of the Court where the Offender was convicted, or by the Deputy of such Clerk or Officer (for which Certificate a Fee of Five Shillings and no more shall be demanded or taken), shall, upon Proof of the Identity of the Person, be sufficient Evidence of the said Conviction, without Proof of the Signature or official Character of the Person appearing to have signed the same.

Attesting
Witness
need not be
called except
in certain
Cases.
17 & 18 Vict.
c. 125. s. 26.
Comparison
of disputed
Writing.
17 & 18 Vict.
c. 125. s. 27.

194. It shall not be necessary to prove by the attesting Witness any Instrument to the Validity of which Attestation is not requisite; and such Instrument may be proved by Admission or otherwise, as if there had been no attesting Witness thereto.

195. Comparison of a disputed Writing with any Writing proved to the Satisfaction of the Judge to be genuine shall be permitted to be made by Witnesses, and such Writings and the Evidence of Witnesses respecting the same may be submitted to the Court and Jury as Evidence of the Genuineness or otherwise of the Writing in dispute.

Provision
for stamping
Documents
at the Trial.
17 & 18 Vict.
c. 125. s. 28.

196. Upon the Production of any Document as Evidence at the Trial of any Cause it shall be the Duty of the Officer of the Court whose Duty it is to mark such Document, to call the Attention of the Judge to any Omission or Insufficiency of the Stamp; and the Document, if unstamped or insufficiently stamped, shall not be received in Evidence until the whole or (as the Case may be) the Deficiency of the Stamp Duty; and the Penalty required by Statute, together with the additional Penalty of *One Pound*, shall have been paid.

Officer of
the Court to
receive the

197. Such Officer of the Court shall upon Payment to him of the whole or (as the Case may be) of the Deficiency of the Stamp Duty payable upon or in respect of such Document, and of the Penalty

Penalty required by Statute, and of the additional Penalty of *One Pound*, give a Receipt for the Amount of the Duty or Deficiency which the Judge shall determine to be payable, and also of the Penalty, and thereupon such Document shall be admissible in
 5 Evidence, saving all just Exceptions on other Grounds; and an Entry of the Fact of such Payment, and of the Amount thereof, shall be made in a Book kept by such Officer; and such Officer shall at the End of each Sittings or Assizes (as the Case may be) duly make a Return to the Commissioners of Inland Revenue of the Moneys,
 10 if any, which he has so received by way of Duty or Penalty, distinguishing between such Moneys, and stating the Name of the Cause and of the Parties from whom he received such Moneys, and the Date, if any, and Description of the Document for the Purpose of identifying the same, and he shall pay over the said Moneys to the
 15 Receiver General of the Inland Revenue, or to such Person as the said Commissioners shall appoint or authorize to receive the same; and in case such Officer shall neglect or refuse to furnish such Account, or to pay over any of the Moneys so received by him as aforesaid, he shall be liable to be proceeded against in the Manner
 20 directed by the Eighth Section of an Act passed in the Session of Parliament holden in the Thirteenth and Fourteenth Years of the Reign of Her present Majesty, intituled "An Act to repeal certain
 " Stamp Duties, and to grant others in lieu thereof; and to amend
 " the Laws relating to the Stamp Duties;" and the said Commis-
 25 sioners shall, upon Request and Production of the Receipt hereinbefore mentioned, cause such Documents to be stamped with the proper Stamp or Stamps in respect of the Sums so paid as aforesaid.

Duty and
 Penalty.
 17 & 18 Vict.
 c. 125. s. 29.

198. If, upon any Trial or other Proceeding pending in any Court, it shall appear to the Court or Judge or other presiding
 30 Officer that any Document liable to Stamp Duty has been lost or destroyed, or cannot be produced, and that such Document was or is either unstamped or insufficiently stamped, and that but for such Defect secondary Evidence thereof would be admissible, it shall be lawful for such Court, Judge, or other presiding Officer, at their or
 35 his Discretion, upon Payment to the Officer of the Court whose Duty it would be to mark the said Document if forthcoming of the whole, or, as the Case may be, of the Deficiency of the Stamp Duty which the Court or Judge or other presiding Officer shall determine to be payable upon or in respect of such Document, and
 40 of such Penalties as mentioned in the last preceding Section, to receive secondary Evidence of the Contents of such Document, saving all just Exceptions on other Grounds; and the last-mentioned Officer shall, upon Demand, within a reasonable Time after such Trial, deliver to the Party by whom or on whose Behalf such Stamp

Secondary
 Evidence
 may be
 given of
 lost Doc-
 uments where
 Original
 unstamped.

Duty and Penalties have ben paid, a Certificate under his Hand containing the Title of the Cause or other Proceeding in which such Payment has been made, the Nature of the Stamp Duty, and the Amount which the Judge or other presiding Officer shall have determined to be payable as aforesaid, the Moneys received in 5 respect of Stamp Duty and Penalties, distinguishing between such Moneys, and such short Description and Summary of the Contents of the Document as may be sufficient to identify the same; and such Certificate shall thenceforth have the same Force and Effect in all Courts of Justice as if such original Document were duly 10 impressed with the Stamp expressed in such Certificate; and the said Officer shall make such Returns and Payments in respect of Moneys so to be received by him as are provided by the last preceding Section, and in case of Neglect or Refusal so to do he shall be liable to be proceeded against in the Manner provided in 15 the last preceding Section.

The last
Two preced-
ing Sections
not to apply
where Docu-
ment cannot
be stamped
after Ex-
ecution.
17 & 18 Vict.
c. 135. s. 29.

199. The Enactments contained in the last Two preceding Sections shall not extend to the Case of any Document which cannot now be stamped after the Execution thereof on the Payment of the Duty and a Penalty.

20

No Docu-
ment under
this Act to
require a
Stamp.
17 & 18 Vict.
c. 125. s. 30.

200. No Document made or required under the Provisions of this Act shall, save as herein-after provided, be liable to any Stamp Duty.

No new
Trial for
ruling as to
Stamp.
17 & 18 Vict.
c. 125. s. 31.

201. No new Trial shall be granted by reason of the ruling of any Judge that the Stamp upon or in respect of any Document is 25 sufficient, or that the Document does not require a Stamp.

With respect to Bills of Exception, be it enacted as follows :

*Bills of
Exceptions.*

Form of
Bill of Ex-
ceptions.
16 & 17 Vict.
c. 113. s. 121.

202. Every Bill of Exceptions may be according to the Form No. 7. in the Schedule (A.) to this Act annexed; and it shall be lawful, by Consent of the Parties or Order of the Judge, to 30 incorporate any Deed or Document therewith by an appropriate Reference to such Deed or Document, without setting forth the same.

Judgment.

With respect to the Form and Manner of entering Judgment, be it enacted as follows :

35

Judgment
not to be
arrested on
technical
Grounds.
16 & 17 Vict.
c. 113. s. 122.

203. No Judgment shall be arrested or stayed or reversed by reason of any Imperfection, Omission, Defect in, or Lack of Form in any Declaration or other Pleading or Proceeding, nor by reason that the Venue is misplaced, or the Trial had in a wrong County or Place, nor by reason of any Misnomer of any of the Jurors who 40
tried

tried the Case in Name, Surname, or Addition, so as it appeared to the Court to be the same Person that was meant to be returned, nor by reason that the Plaintiff or Defendant, being under the Age of Twenty-one Years, did sue or defend by Attorney.

- 5 **204.** It shall not be necessary, before issuing Execution upon any Judgment under the Authority of this Act, to enter the Proceedings upon any Roll, but on producing and lodging with the proper Officer a Certificate of the Name, Description, and Address of the Parties, an Entry shall be made in the Judgment Book, signed by
 10 the Master, shortly stating the Nature of the Judgment, and thereupon the Costs shall be taxed and Execution issued according to the Practice heretofore used; and such Entry in the said Judgment Book shall contain a Reference to the Number of the Roll on which such Judgment shall be enrolled, and shall contain a Column in
 15 which any Satisfaction of the said Judgment may be afterwards entered, if necessary: Provided, nevertheless, that the Proceedings may be entered upon the Roll whenever the same may become necessary for the Purpose of Evidence, or of bringing Error, or the like.

Entry of Judgment on the Roll unnecessary for Execution.
 16 & 17 Vict.
 c. 113. s. 123.

- 20 **205.** In all Actions where the Plaintiff recovers a Sum of Money the Amount to which he is entitled may be awarded to him generally without any Distinction being therein made as to whether such Sum is recovered by way of Debt or Damages.

Judgment for Money Demands without Distinction between Debt and Damages.
 15 & 16 Vict.
 c. 76. s. 95.

And with respect to Execution, be it enacted as follows:

- 25 **206.** A Plaintiff or Defendant having obtained a Verdict or Nonsuit in a Cause tried out of Term shall be entitled, without any Rule on the Postea or Inquisition, to mark Judgment, and to issue Execution in Fourteen Days, and in a Cause tried in Term in Four Days, unless the Judge who tries the Cause, or some other Judge,
 30 or the Court, shall order Execution to issue at an earlier or later Period, with or without Terms; and it shall be lawful for the said Judge before whom the Trial has been had, or any other Judge, or the Court, to make such Order accordingly: Provided that, notwithstanding any Judgment signed or recorded or Execution issued
 35 by virtue of this Act, it shall be lawful for the Court in which such Action shall have been brought, to order such Judgment to be vacated, and Execution to be stayed or set aside, and to enter an Arrest of Judgment, or grant a new Trial or new Writ of Inquiry, as Justice may appear to require, and thereupon the Party affected by
 40 such Execution shall be restored to all he may have lost thereby in such Manner as upon the Reversal of a Judgment by a Proceeding in Error, or otherwise as the Court may think fit to direct.

Execution.
 Execution after Trial.
 16 & 17 Vict.
 c. 113. s. 127.

Ground
Writs not
necessary.
15 & 16 Vict.
s. 76. s. 121.

207. It shall not be necessary to issue any Writ directed to the Sheriff of the County in which the Venue is laid, but Writs of Execution may issue at once into any County, and be directed to and executed by the Sheriff of any County, without reference to the County in which the Venue is laid, and without any Suggestion 5 of the issuing of a prior Writ into such County.

Expenses of
Execution.
15 & 16 Vict.
c. 76. s. 123.

208. In every Case of Execution the Party entitled to Execution may levy the Poundage Fees and Expenses of the Execution, over and above the Sum recovered.

Writs of
Execution to
remain in
force for
One Year,
and to be
renewed if
necessary.
15 & 16 Vict.
c. 76. s. 124.

209. A Writ of Execution issued after the Commencement of this 10 Act, if unexecuted, shall not remain in force for more than One Year from the Teste of such Writ, unless renewed in the Manner herein-after provided; but such Writ may, at any Time before its Expiration, be renewed by the Party issuing it, for One Year from the Date of such Renewal, and so on from Time to Time during the 15 Continuance of the renewed Writ, either by being marked with a Seal bearing the Date of the Day, Month, and Year of such Renewal (such Seal to be provided and kept for that Purpose at the Office of the Master of the Court out of which such Writ issued), or by such Party giving a written Notice of Renewal to the Sheriff, signed by 20 the Party or his Attorney, and bearing the like Seal of the Court; and a Writ of Execution so renewed shall have effect and be entitled to Priority according to the Time of the original Delivery thereof: Provided, however, that no Writ of Habere shall be renewed without the special Leave of the Court or Judge. 25

Production
of renewed
Writ Evi-
dence of
Renewal.
15 & 16 Vict.
c. 76. s. 125.

210. The Production of a Writ of Execution, or of the Notice renewing the same, purporting to be marked with such Seal, showing the same to have been renewed according to this Act, shall be sufficient Evidence of its having been so renewed.

Sheriff or
Gaoler may
discharge
Prisoner by
Authority of
Attorney in
the Cause.
15 & 16 Vict.
c. 76. s. 126.

211. A written Order under the Hand of the Attorney in the 30 Cause by whom any Writ of Capias ad satisfaciendum shall have been issued shall justify the Sheriff, Gaoler, or Person in whose Custody the Party may be under such Writ in discharging such Party, unless the Party for whom such Attorney professes to act shall have given written Notice to the contrary to such Sheriff, 35 Gaoler, or Person in whose Custody the opposite Party may be, but such Discharge shall not be a Satisfaction of the Debt, unless made by the Authority of the Creditor; and nothing herein contained shall justify any Attorney in giving such Order for Discharge without the Consent of his Client. 40

212. It

212. It shall not be necessary in any Case to sue out a Writ of Habeas corpus ad satisfaciendum to charge in Execution a Person already in the Prison of the Court, but such Person may be so charged in Execution by a Judge's Order made upon Affidavit that Judgment has been signed and is not satisfied; and the Service of such Order upon the Keeper of the Prison for the Time being shall have the Effect of a Detainer.

Proceedings
for charging
in execution
a Person
already in
Prison of the
Court.
15 & 16 Vict.
c. 76. s. 127.

213. By virtue of any Writ of Fieri facias to be sued out of any Superior or Inferior Court, or any Precept in pursuance thereof, the Sheriff or other Officer having the Execution thereof may and shall seize and take any Money or Bank Notes (whether of the Governor and Company of the Bank of Ireland or of any other Bank or Bankers), and any Cheques, Bills of Exchange, Promissory Notes, Bonds, Specialties, or other Securities for Money, belonging to the Person against whose Effects such Writ of Fieri facias shall be sued out, and may and shall pay or deliver to the Party suing out such Execution any Money or Bank Notes which shall be so seized, or a sufficient Part thereof, and may and shall hold any such Cheques, Bills of Exchange, Promissory Notes, Bonds, Specialties, or other Securities for Money as a Security or Securities for the Amount by such Writ of Fieri facias directed to be levied, or so much thereof as shall not have been otherwise levied and raised, and may sue in the Name of such Sheriff or other Officer for the Recovery of the Sum or Sums secured thereby, if and when the Time of Payment thereof shall have arrived; and the Payment to such Sheriff or other Officer by the Party liable, with or without Suit, or the Recovery and levying Execution against the Party so liable, shall discharge him to the Extent of such Payment, or of such Recovery and Levy in Execution, as the Case may be, from his Liability on any such Cheque, Bill of Exchange, Promissory Note, Bond, Specialty, or other Security; and such Sheriff or other Officer may and shall pay over to the Party suing out such Writ the Money so to be recovered, or such Part thereof as shall be sufficient to discharge the Amount by such Writ directed to be levied; and if, after Satisfaction of the Amount so to be levied, together with Sheriff's Poundage and Expenses, any Surplus shall remain in the Hands of such Sheriff or other Officer, the same shall be paid to the Party against whom such Writ shall be so issued: Provided that no such Sheriff or other Officer shall be bound to sue any Party liable upon any such Cheque, Bill of Exchange, Promissory Note, Bond, Specialty, or other Security, unless the Party suing out such Execution shall enter into a Bond, with Two sufficient Sureties, for indemnifying him from all Costs and Expenses to be incurred in the Prosecution of such Action, or to which he may become liable in consequence

Sheriff em-
powered to
seize Money,
Bank Notes,
&c., and to
pay Money
or Bank
Notes to
Execution
Creditor.
16 & 17 Vict.
c. 113. s. 131.
3 & 4 Vict.
c. 105. s. 20

thereof, the Amount of such Bond or the Sufficiency of such Sureties, or such Amount and such Sufficiency, to be determined by the Master of the Court in which such Action shall be brought, or, if the Court shall so order, by a Commissioner of such Court authorized to take special Bail, and the Expense of such Bond to be deducted out of any Money to be recovered in such Action. 5

Attachment
of Govern-
ment and
public Stock
and Shares.
16 & 17 Vict.
c. 113. s. 132.
3 & 4 Vict.
c. 105. s. 23.

214. If any Person against whom any Judgment shall have been entered up in any of Her Majesty's Superior Courts at Dublin shall have any Government Stock, Funds, or Annuities, or any Stock or Shares in any public Company in Ireland, whether incorporated or not, and standing in his Name in his own Right, or in the Name of any Person in trust for him, it shall be lawful for the Court or a Judge, on the Application of such Judgment Creditor, to order that such Stock, Funds, Annuities, or Shares, or such of them or such Part thereof as such Court or Judge shall think fit, shall stand charged with the Payment of the Amount for which such Judgment shall have been so recovered, and Interest thereon, and such Order shall entitle the Judgment Creditor to all such Remedies as he would have been entitled to if such Charge had been made in his Favour by the Judgment Debtor; and the Provisions last aforesaid shall extend to the Interest of any Judgment Debtor, whether in Possession, Remainder, or Reversion, and whether vested or contingent, as well in any such Stocks, Funds, Annuities, or Shares as aforesaid, as also in the Dividends, Interest, or annual Produce of any such Stocks, Funds, Securities, or Shares; provided that no Proceedings shall be taken to have the Benefit of such Charge until after the Expiration of *Six Calendar Months* from the Date of such Order. 10 15 20 25

Order in
respect of
Money in
Name of
Accountant
General.
16 & 17 Vict.
c. 113. s. 135.
3 & 4 Vict.
c. 105. s. 23.

215. If such Judgment Debtor shall have any such Estate or Interest, as mentioned in the last preceding Section, in any such Stock, Funds, Annuities, or Shares, or Money, which shall be standing in the Name of the Accountant General of the Court of Chancery, or of the Landed Estates Court, or of the Master of any of the Superior Courts of Law in Ireland, or in the Dividends, Interest, or annual Produce thereof, it shall be lawful for the Court or a Judge to make such Order as to such Stock, Funds, Annuities, Shares, or the Dividends, Interest, and annual Produce thereof, as if the same had been standing in the Name of a Trustee for such Judgment Debtor; but no such Order shall prevent the Governor and Company of the Bank of Ireland or any public Company from permitting any Transfer of such Stocks, Funds, Annuities, or Shares, or Money, or the Payment of the Dividends, Interest, or annual Produce thereof, in such Manner as the said Court of Chancery, or the 30 35 40

the Landed Estates Court, or the Court of Common Law may direct, or shall have any greater Effect than if such Debtor had charged such Stock, Funds, Annuities, or Shares, or the Interest, Dividends, or annual Produce thereof, in favour of the Judgment Creditor, with
 5 the Amount of the Sum to be mentioned in any such Order: Provided, that no Proceedings shall be taken to have the Benefit of such Charge until after the Expiration of *Six Calendar Months* from the Date of such Order; and provided also, that it shall be lawful for the said Court of Chancery, or Court of Common Law, or the said
 10 Landed Estates Court, on the Application of the Judgment Creditor, to make such Order in respect of same shall be just.

216. And in order to prevent any Person against whom Judgment shall have been obtained from transferring, receiving, or disposing of any Stock, Funds, Annuities, or Shares hereby authorized to be
 15 charged for the Benefit of a Judgment Creditor, under an Order of a Court or Judge, be it enacted, That every Order of such Court or Judge charging any Government Stock, Funds, or Annuities, or any Stock or Shares in any public Company under this Act, shall be made in the first instance *ex parte* and without any Notice to
 20 the Judgment Debtor, and shall be an Order to show Cause only; and such Order, if any Government Stock, Funds, or Annuities standing in the Name of the Judgment Debtor in his own Right, or in the Name of any Person in trust for him, is or are to be affected by such Order, shall restrain the Governor and Company of
 25 the Bank of Ireland from permitting a Transfer of such Stock in the meantime, and until such Order shall be made absolute or discharged; and if any Stock or Shares of or in any public Company standing in the Name of the Judgment Debtor in his own Right, or in the Name of any Person in trust for him, is or are to be affected
 30 by any such Order, shall in like Manner restrain such public Company from permitting a Transfer thereof; and if after Notice of such Order to the Person or Persons to be restrained thereby, or in case of Corporations, to any authorized Agent of such Corporation, and before the same Order shall be discharged or made absolute, such
 35 Corporation or Person or Persons, shall permit any such Transfer to be made, then and in such Case the Corporation or Person or Persons so permitting such Transfer shall be liable to the Judgment Creditor for the Value or Amount of the Property so charged and so transferred, or such Part thereof as may be sufficient to satisfy
 40 his Judgment; and no Disposition of the Judgment Debtor in the meantime shall be valid or effectual as against the Judgment Creditor; and further, unless the Judgment Creditor shall within a Time to be mentioned in such Order show to One of the said Courts or a Judge thereof sufficient Cause to the Contrary, the said Order shall, after

Order of Court or Judge to be made in the first instance *ex parte*, and Notice to Bank or Company to operate as a *Distringas*.
 3 & 4 Vict. c. 105. s. 24.

Proof of Notice thereof to the Judgment Debtor, his Attorney, or Agent, be made absolute: Provided that any such Court or Judge shall, upon the Application of the Judgment Debtor, or any Person interested, have full Power to discharge or vary such Order, and to award such Costs upon such Application as the said Court or Judge 5 may think fit.

Execution
against
beneficed
Clergymen.
16 & 17 Vict.
c. 113. s. 136.

217. Where to a Writ of Fieri facias issued against a beneficed Clergyman the Sheriff shall have returned Nulla bona, and that the Defendant is a beneficed Clerk having no lay Fee, the Plaintiff may as of course issue a Writ of Execution De bonis ecclesiasticis 10 directed to the Bishop of any Diocese in which the Defendant may have a Benefice, and at any Time after a Writ of Execution De bonis ecclesiasticis shall have been delivered to any Bishop, the Plaintiff may apply to the Court by Motion for an Order that the Bishop do certify what has been done under the Writ, and that the 15 Sequestrator do account; and where, in obedience to any such Writ of Fieri facias de bonis ecclesiasticis, a Sequestration of the ecclesiastical Benefice shall be issued by any Bishop, it shall be lawful for any Court in which any Judgment shall be had against the same Defendant, and Execution issued and returned Nulla bona, to 20 make an Order extending the said Sequestration to the Matter of the said last-mentioned Judgment, without any further Writ or Proceeding; and the said last-mentioned Creditor shall have the Benefit of such Sequestration, and with Priority as from the Date of such Order of Extension, as if it were a Sequestration issued at 25 his own Instance.

Return of
Devastavit
not to be
made but on
Finding of
Jury.
16 & 17 Vict.
c. 113. s. 137.

218. No Sheriff or other Officer shall return a Devastavit against any Defendant being an Executor or Administrator in any Action, but upon any Inquisition taken on the Oaths of Twelve lawful Men of his County to whom Challenge may be taken; and the Plaintiff 30 shall give the Defendant Ten Days previous Notice of the taking of such Inquisition, and of the Time and Place of taking the same; and upon the Return of such Devastavit the Plaintiff shall be entitled to immediate Execution De bonis propriis without further Rule or Judgment. 35

Examination
of Judgment
Debtor as to
Debts due to
him.
17 & 18 Vict.
c. 120. s. 60.

219. It shall be lawful for any Creditor who has obtained a Judgment in any of the Superior Courts to apply to the Court or a Judge for a Rule or Order that the Judgment Debtor should be orally examined as to any and what Debts are owing to him before a Master of the Court, or such other Person as the Court or 40 Judge shall appoint, and the Court or Judge may make such Rule or Order for the Examination of such Judgment Debtor and for the

the Production of any Books or Documents, and the Examination shall be conducted in the same Manner as in the Case of an oral Examination of an opposite Party before a Master under this Act.

220. It shall be lawful for the Court or a Judge, upon the ex parte Application of such Judgment Creditor, either before or after such oral Examination, and upon Affidavit by himself or his Attorney, stating that Judgment has been recovered, and that it is still unsatisfied, and to what Amount, and that any other Person is indebted to the Judgment Creditor, and is within the Jurisdiction, to order that all Debts owing or accruing from such Third Person (herein-after called the Garnishee) to the Judgment Debtor shall be attached to answer the Judgment Debt; and by the same or any subsequent Order it may be ordered that the Garnishee shall appear before the Court or Judge, to show Cause why he should not pay the Judgment Creditor the Debt due from him to the Judgment Debtor, or so much thereof as may be sufficient to satisfy the Judgment Debt; and the Court may, in relation to the Service of such Order, or any Notice thereof, exercise such or the like Powers as are contained in the Sixteenth, Seventeenth, Eighteenth, and Nineteenth Sections of this Act, in relation to the Service of Writs in personal Actions.

Court or Judge may order an Attachment of Debts.
17 & 18 Vict.
c. 125. s. 61.

221. Service of an Order that Debts due or accruing to the Judgment Debtor shall be attached, or Notice thereof to the Garnishee, in such Manner as the Court or Judge shall direct, shall bind such Debts in his Hands.

Order for Attachment to bind Debts.
17 & 18 Vict.
c. 125. s. 62.

222. If the Garnishee does not forthwith pay into Court the Amount due from him to the Judgment Debtor, or an Amount equal to the Judgment Debt, and does not dispute the Debt due or claimed to be due from him to the Judgment Debtor, or if he does not appear upon Summons, then the Court or Judge may order Execution to issue, and it may be sued forth accordingly, without any previous Writ or Process, to levy the Amount due from such Garnishee towards Satisfaction of the Judgment Debt.

Proceedings to levy Amount due from Garnishee to Judgment Debtor.
17 & 18 Vict.
c. 125. s. 63.

223. If the Garnishee disputes his Liability, the Court or a Judge, instead of making an Order that Execution shall issue, may order that the Judgment Creditor shall be at liberty to proceed against the Garnishee by Writ, calling upon him to show Cause why there should not be Execution against him for the alleged Debt, or for the Amount due to the Judgment Debtor, if less than the Judgment Debt, and for Costs of Suit; and the Proceedings upon such Suit shall be the same as nearly as may be as upon a Writ of Revivor issued under this Act.

The Court or a Judge may allow Judgment Creditor to sue Garnishee.
17 & 18 Vict.
c. 125. s. 64.

Garnishee
discharged.
17 & 18 Vict.
c. 125. s. 65.

224. Payment made by or Execution levied upon the Garnishee under any such Proceeding as aforesaid shall be a valid Discharge to him as against the Judgment Debtor to the Amount paid or levied, although such Proceeding may be set aside or the Judgment reversed.

5

Attachment
Book to be
kept by the
Masters of
each Court.
17 & 18 Vict.
c. 125. s. 66.

225. In each of the Superior Courts there shall be kept at the Master's Office a Debt Attachment Book, and in such Book Entries shall be made of the Attachment and Proceedings thereon, with Names, Dates, and Statements of the Amount recovered, and otherwise; and the Mode of keeping such Books shall be the same in all the Courts; and Copies of any Entries made therein may be taken by any Person upon Application to the Master.

10

Costs of Ap-
plication.
17 & 18 Vict.
c. 125. s. 67.

226. The Costs of any Application for an Attachment of Debt under this Act, and of any Proceedings arising from or incidental to such Application, shall be in the Discretion of the Court or a Judge.

15

The Court
or a Judge
may refuse
to interfere
in Proceed-
ings to at-
tach Debts.
23 & 24 Vict.
c. 126. s. 28.
Proceedings
where Third
Person has a
lien on the
Debt.
23 & 24 Vict.
c. 126. s. 29.

227. In Proceedings to obtain an Attachment of Debts under the foregoing Provisions, the Court or Judge may, in their or his Discretion, refuse to interfere, or may impose such Terms and Conditions as to the Time and Mode of Payment, or otherwise, as they or he may think fit.

20

228. Whenever in Proceedings to obtain an Attachment of Debts under this Act, it is suggested by the Garnishee that the Debt sought to be attached belongs to some Third Person who has a Lien or Charge upon it, the Court or Judge may order such Third Person to appear before them or him, and state the Nature and Particulars of his Claim upon such Debt.

25

The Court
or a Judge
may bar
Claim of
Third Person,
and make
Orders.
23 & 24 Vict.
c. 126. s. 30.

229. After hearing the Allegations of such Third Person under such Order, and of any other Person whom by the same or any subsequent Order the Court or Judge may think fit to call before them or him, or in case of such Third Person not appearing before them or him upon such Summons, the Court or Judge may order Execution to issue to levy the Amount due from such Garnishee, or the Judgment Creditor to proceed against the Garnishee, according to the Provisions of this Act, and may bar the Claim of such Third Person, or make such other Order as the Court or Judge shall think fit, upon such Terms, in all Cases, with respect to the Lien or Charge (if any) of such Third Person, and to Costs, as they or he shall think just and reasonable.

30

35

230. Writs

230. Writs of Injunction against a Corporation may be enforced either by Attachment against the Directors or other Officers thereof, or by Writ of Sequestration against the Property and Effects of such Corporation, or of such Directors or Officers, to be issued in such Form and tested and returnable in like Manner as Writs of Execution, and to be proceeded upon and in like Manner as Writs of Sequestration issuing out of the Court of Chancery.

Mode of enforcing Writs of Injunction against Corporations.
23 & 24 Vict. c. 126. s. 33.

And with respect to the Assignment and Suggestion of Breaches on Covenants and Agreements for Payment of any penal Sum, be it enacted as follows :

Assignment of Breaches.

231. In any Action on any Bond, Covenant, or Agreement for Payment of any penal Sum for Nonperformance of any Covenant or Agreement contained in any Deed or Writing, and whether accompanied by Warrant of Attorney or not, the Plaintiff may, in the Declaration, assign One or more than One Breach of such Covenant or Agreement.

Assignment of Breaches on penal Covenant.
16 & 17 Vict. c. 113. s. 145.

232. In all such Actions as last aforesaid, the Jury or the Master shall ascertain the Damages in respect of such Breach or Breaches as shall be proved or admitted, and Judgment shall be entered for the full Amount of such Penalty, with an Award of the Payment of the Damages assessed if any ; and in case the Defendant shall pay into Court to the Credit of the Cause the Damages so assessed by the Jury or the Master, with the Costs of Suit, a Stay of Execution shall be entered on the Record of such Judgment for that Time ; and in case the Plaintiff shall be paid or satisfied the said Damages so assessed or the penal Sum aforesaid at the Election of the Defendant, with the Costs of Suit aforesaid and of Execution, the Defendant shall be discharged from such Execution entirely or for that Time, and for the Amount so paid, according as the Case may be, and such Discharge may be entered on the Record of the said Judgment ; but in case the said Damages do not amount to the said penal Sum, such Judgment shall still remain in full Force as a further Security to answer the Plaintiff, his Executors and Administrators, all such Damages as may be afterwards sustained by reason of any further Breach of any Covenant or Agreement in the said Deed or Writing as far as the Remainder of such penal Sum, after the Payment of the Damages formerly recovered out of the same, will reach.

Damages on Breaches to be ascertained.
16 & 17 Vict. c. 113. s. 146.

233. In all such Actions as last aforesaid, in case Judgment shall pass for the Plaintiff, and the full Amount thereof, and the Costs of Suit shall not have been paid or levied, and afterwards any further Breach or Breaches shall happen, the Plaintiff shall be at liberty to

Suggestion of further Breaches and Execution on same.
16 & 17 Vict. c. 113. s. 147.

file One or more than One Suggestion of such Breaches in the Form No. 8. in the Schedule (A.) to this Act annexed, or to the like Effect, and such Suggestion shall be pleaded to and the Truth of the Matters therein suggested shall be tried, and Damages awarded, and Judgment and Execution shall be given in like Manner as if the same were on Writ and Declaration; and upon Payment or Satisfaction of such further Damages and Costs, further Proceedings shall be stayed for that Time, and so from Time to Time as often as Occasion may require, on every new Breach the said Judgment may be resorted to, so far as aforesaid, and no further; and upon Payment or Satisfaction made to the full Amount of the said penal Sum and Costs as aforesaid, the said Defendant, his Body, Lands, and Goods, shall be discharged of all Execution in respect of the same.

*Proceedings
to revive.*

And with respect to Proceedings for the Revival of Judgments and other Proceedings by and against Persons not Parties to the Record, be it enacted as follows :

Execution
in Six Years
without Re-
vival.

15 & 16 Vict.
c. 76. s. 128.

234. Writs of Execution may be issued at any Time within *Six Years* after the Recovery of the Judgment, by or against the Plaintiffs or Defendants, or the Survivors of them, without any Revival of such Judgment.

20

Judgment
to be revived
by Writ or
with Leave
of Court or
Judge by
Suggestion.

15 & 16 Vict.
c. 76. s. 129.

235. In Cases where it shall become necessary to revive a Judgment by reason either of Lapse of Time or of a Change by Death, or otherwise, of the Parties entitled or liable to Execution, the Party alleging himself to be entitled to Execution may either sue out a Writ of Revivor in the Form herein-after mentioned, or apply to the Court or a Judge for Leave to enter a Suggestion upon the Roll, to the Effect that it manifestly appears to the Court that such Party is entitled to have Execution of the Judgment and to issue Execution thereupon; such Leave to be granted by the Court or a Judge upon a Rule to show Cause, and which Rule may be in the Form contained in the Schedule (A.) to this Act annexed, marked No. 9., or to the like Effect.

25

30

Proceedings
upon Appli-
cation for
Suggestion
to revive
Judgment.

15 & 16 Vict.
c. 76. s. 130.

236. Upon such Application, in case it manifestly appears that the Party making the same is entitled to Execution, the Court or Judge shall allow such Suggestion as aforesaid to be entered in the Form contained in the Schedule (A.) to this Act annexed marked No. 10., or to the like Effect, and Execution to issue thereupon, and shall order, whether or not the Costs of such Application shall be paid to the Party making the same, and in case the said Costs shall be so ordered to the Party making the Application, they shall be Costs in the Cause; and in case it does not manifestly so appear, the

35

40

the Court or Judge shall discharge the Rule with or without Costs :
 Provided nevertheless, that in such last-mentioned Case the Party
 making such Application shall be at liberty to proceed by Writ of
 Revivor or Action upon the Judgment.

- 5 **237.** In any Action on a Judgment or in any Proceeding by Writ of Revivor to revive a Judgment, or to have Execution for the Sum remaining due and unsatisfied on Foot of such Judgment, if the Defendant has paid the Money due on such Judgment or the Balance claimed on Foot of the same, such Payment shall and may
 10 be pleaded in bar of any such Action or Proceeding by Writ of Revivor.

Plea of Pay-
 ment of
 Judgment.
 16 & 17 Vict.
 c. 113. s. 125.

- 238.** The Writ of Revivor shall be directed to the Party called upon to show Cause why Execution should not be awarded, and shall bear Teste on the Day of its issuing; and after reciting the
 15 Reason why such Writ has become necessary it shall call upon the Party to whom it is directed to appear within *Eight Days* after Service thereof in the Court out of which it issues, to show Cause why the Party at whose Instance such Writ has been issued should not have Execution against the Party to whom such Writ
 20 is directed for the Amount claimed to be due, and it shall give Notice that, in default of Appearance, the Party issuing such Writ may proceed to Execution for such Amount, together with the Costs of such Proceedings; and such Writ may be in the Form contained in the Schedule (A.) to this Act annexed marked
 25 No. 11., or to the like Effect, and may be served in any County, and otherwise proceeded upon, whether in Term or Vacation, in the same Manner as a Writ of Summons; and the Venue in a Declaration upon such Writ may be laid in any County; and the Pleadings and Proceedings thereupon, and the Rights of the
 30 Parties respectively to Costs, shall be the same as in an ordinary Action.

Writ of Re-
 vivor and
 Proceedings
 thereon.

15 & 16 Vict.
 c. 76. s. 131.

- 239.** All Writs of Scire facias issued out of any of the Superior Courts of Law at Dublin against Bail on a Recognizance, against
 35 Members of a Joint Stock Company or other Body upon a Judgment recorded against a public Officer or other Person sued as representing such Company or Body, or against such Company or Body itself, by or against a Husband to have Execution of a Judgment, for or against a Wife, for Restitution after a Reversal in Error, or for Execution upon a Judgment of Assets in futuro, shall
 40 be tested, directed, and proceeded upon in like Manner as Writs of Revivor.

Writs of Scire
 facias in
 other Cases
 to be tested,
 directed, and
 proceeded
 upon in like
 Manner.

15 & 16 Vict.
 c. 76. s. 132.
 17 & 18 Vict.
 c. 125. s. 91.

Appearance
to Writ of
Revivor.

15 & 16 Vict.
c. 76. s. 133.

As to Issue
of Writ of
Revivor
upon Judg-
ment more
than Ten
Years old.

15 & 16 Vict.
c. 76. s. 134.

*Satisfaction
of Judg-
ments.*

Satisfaction
of Judg-
ments by
Party.

16 & 17 Vict.
c. 113. s. 143.

Court may
order Satis-
faction to be
entered on
Judgment
fully paid.
16 & 17 Vict.
c. 113. s. 144.

*Death,
Marriage,
and
Bankruptcy.*

Action not
to abate by
Death.

15 & 16 Vict.
c. 76. s. 135.

Proceedings
in case of
Death of One
or more of
several

240. Notice in Writing to the Plaintiff, his Attorney or Agent, shall be sufficient Appearance to a Writ of Revivor.

241. A Writ of Revivor to revive a Judgment less than *Ten Years* old shall be allowed without any Rule or Order; if more than *Ten Years* old not without an Order of the Court or a Judge, nor, if more than Fifteen, without a Rule to show Cause.

And with respect to the Satisfaction of Judgments, be it enacted as follows :

242. When any Party who shall have recovered Judgment in any of the said Courts, or his personal Representative or legal Assignee, shall be willing to cause an Entry of Satisfaction thereof or a Memorandum of part Payment to be entered on the Record, such Party shall execute a Satisfaction Piece according to the Form No. 12. in the Schedule (A.) to this Act annexed (which Satisfaction Piece shall not be subject to any Stamp Duty); and such Satisfaction Piece shall be executed in the Presence of One Witness who shall attest by Affidavit the Execution of the same; and thereupon it shall be lawful for any Attorney of the said Court employed for that Purpose to require the proper Officer to enter Satisfaction or a Memorandum of part Payment on the Record of such Judgment; and such Officer shall, on having such Satisfaction Piece verified as aforesaid, and such Requisition lodged with him, enter such Satisfaction or a Memorandum of part Payment on the Record accordingly.

243. It shall be lawful for the Court or a Judge to order a Memorandum of Satisfaction to be entered upon the Record of any Judgment, Judgment Roll, or Judgment Book if it shall clearly appear to the said Court or Judge that the Debt or Damages for which the said Judgment was obtained have been fully satisfied and discharged.

And with respect to the Effect of Death, Marriage, and Bankruptcy upon the Proceedings in an Action, be it enacted as follows :

244. The Death of a Plaintiff or Defendant shall not cause the Action to abate, but it may be continued as herein-after mentioned.

245. If there be Two or more Plaintiffs or Defendants, and One or more of them should die, if the Cause of such Action shall survive to the surviving Plaintiff or Plaintiffs, or against the surviving Defendant or Defendants, the Action shall not be thereby abated, but such Death being suggested upon the Record, the Action shall proceed

proceed at the Suit of the surviving Plaintiff or Plaintiffs against the surviving Defendant or Defendants.

Plaintiffs or Defendants.
15 & 16 Vict.
c. 76. s. 136.

246. In case of the Death of a sole Plaintiff or sole surviving Plaintiff, when the Action survives, the legal Representative of such Plaintiff may, by Leave of the Court or a Judge, enter a Suggestion of the Death, and that he is such legal Representative, and the Action shall thereupon proceed; and if such Suggestion be made before the Trial, the Truth of the Suggestion shall be tried thereat, together with the Title of the deceased Plaintiff, and such Judgment shall follow upon the Verdict in favour of or against the Person making such Suggestion as if such Person were originally the Plaintiff.

Proceeding in case of Death of sole Plaintiff.
15 & 16 Vict.
c. 76. s. 137.

247. In case of the Death of a sole Defendant or sole surviving Defendant, where the Action survives, the Plaintiff may make a Suggestion, either in any of the Pleadings if the Cause has not arrived at Issue, or in a Copy of the Issue if it has so arrived, of the Death, and that a Person named therein is the Executor or Administrator of the Deceased, and may thereupon serve such Executor or Administrator with a Copy of the Writ and Suggestion, and with a Notice, signed by the Plaintiff or his Attorney, requiring such Executor or Administrator to appear within Eight Days after Service of the Notice, inclusive of the Day of such Service, and that in default of his so doing the Plaintiff may sign Judgment against him as such Executor or Administrator; and the same Proceedings may be had and taken in case of Nonappearance after such Notice as upon a Writ against such Executor or Administrator in respect of the Cause for which the Action was brought; and in case no Pleadings have taken place before the Death, the Suggestion shall form Part of the Declaration, and the Declaration and Suggestion may be served together, and the new Defendant shall plead thereto at the same Time; and in case the Plaintiff shall have declared, but the Defendant shall not have pleaded before the Death, the new Defendant shall plead at the same Time to the Declaration and Suggestion; and in case the Defendant shall have pleaded before the Death, the new Defendant shall be at liberty to plead to the Suggestion only by way of Denial, or such Plea as may be appropriate to and rendered necessary by his Character of Executor or Administrator, unless by Leave of the Court or a Judge he should be permitted to plead fresh Matter in answer to the Declaration; and in case the Defendant shall have pleaded before the Death, but the Pleadings shall not have arrived at Issue, the new Defendant, besides pleading to the Suggestion, shall continue the Pleadings to Issue in the same Manner as the Deceased might have done, and

Proceeding upon Death of sole or surviving Defendant.
15 & 16 Vict.
c. 76. s. 138.

the Pleadings upon the Declaration and the Pleadings upon the Suggestion shall be tried together; and in case the Plaintiff shall recover, he shall be entitled to the like Judgment in respect of the Debt or Sum sought to be recovered, and in respect of the Costs prior to the Suggestion, and in respect of the Costs of the Suggestion 5 and subsequent thereto he shall be entitled to the like Judgment as in an Action originally commenced against the Executor or Administrator.

Death between Verdict and Judgment.
15 & 16 Vict.
c. 76. s. 139.

248. The Death of either Party between the Verdict or Nonsuit and the Judgment shall not hereafter be alleged for Error, so as 10 such Judgment be entered within Two Terms after such Verdict or Nonsuit.

Proceedings in case of Death after Interlocutory and before Final Judgment.
15 & 16 Vict.
c. 76. s. 140.

249. If the Plaintiff in any Action happen to die after an Interlocutory Judgment and before a Final Judgment obtained therein, the said Action shall not abate by reason thereof, if such Action 15 might be originally prosecuted or maintained by the Executor or Administrator of such Plaintiff; and if the Defendant die after such Interlocutory Judgment and before Final Judgment therein obtained the said Action shall not abate, if such Action might be originally prosecuted or maintained against the Executor or Administrator of 20 such Defendant; and the Plaintiff, or if he be dead after such Interlocutory Judgment his Executors or Administrators, shall and may have a Writ of Revivor, in the Form contained in the Schedule (A.) to this Act annexed, marked No. 11., or to the like Effect, against the Defendant if living after such Interlocutory Judgment, 25 or if he be dead then against his Executors or Administrators, to show Cause why Damages in such Action should not be assessed and recovered by him or them; and if such Defendant, his Executors or Administrators, shall appear at the Return of such Writ, and not show or allege any Matter sufficient to arrest the Final Judgment, 30 or shall make Default, a Writ of Inquiry of Damages shall be thereupon awarded, or the Amount for which Final Judgment is to be signed shall be referred to the Master as herein-before provided; and upon the Return of the Writ, or Delivery of the Order with the Amount endorsed thereon, to the Plaintiff, his Executors or 35 Administrators, Final Judgment shall be given for the said Plaintiff, his Executors or Administrators, prosecuting such Writ of Revivor against such Defendant, his Executors or Administrators respectively.

To compel Continuance or Abandonment of Action in case of Death.
17 & 18 Vict.
c. 125. s. 92.

250. Where an Action would but for the Provisions of this Act have abated by reason of the Death of either Party, and the 40 Proceedings may be revived and continued under this Act, the Defendant or Person against whom the Action may be so continued may

may apply by Notice or otherwise to compel the Plaintiff or Person entitled to proceed with the Action in the Room of the Plaintiff to proceed according to the Provisions of this Act within such Time as the Court or Judge shall order; and in default of such Proceeding, 5 the Defendant or other Person against whom the Action may be so continued as aforesaid shall be entitled to enter a Suggestion of such Default, and of the representative Character of the Person by or against whom the Action may be proceeded with, as the Case may be, and to have Judgment for the Costs of the Action and Suggestion 10 against the Plaintiff or against the Person entitled to proceed in his Stead, as the Case may be, and in the latter Case to be levied off the Goods of the Testator or Intestate.

251. The Marriage of a Woman, Plaintiff or Defendant, shall not cause the Action to abate, but the Action may notwithstanding 15 be proceeded with to Judgment; and such Judgment may be executed against the Wife alone, or, by Suggestion or Writ of Revivor pursuant to this Act, Judgment may be obtained against the Husband and Wife, and Execution issue thereon; and in case of a Judgment for the Wife, Execution may be issued thereupon by 20 the Authority of the Husband, without any Writ of Revivor or Suggestion; and if in any such Action the Wife shall sue or defend by Attorney appointed by her when sole, such Attorney shall have Authority to continue the Action or Defence, unless such Authority be countermanded by the Husband, and the Attorney changed 25 according to the Practice of the Court.

Marriage
not to abate
Action.

15 & 16 Vict.
c. 76. s. 141.

252. The Bankruptcy or Insolvency of the Plaintiff in any Action which the Assignees might maintain for the Benefit of the Creditors shall not be pleaded in bar to such Action, unless the Assignees shall decline to continue, and give Security for the Costs 30 thereof upon an Order of the Court or Judge to be obtained for that Purpose, within such reasonable Time as the Court or Judge may order, but the Proceedings may be stayed until such Election is made; and in case the Assignees neglect or refuse to continue the Action, and give such Security within the Time limited by the 35 Order, the Defendant may within Eight Days after such Neglect or Refusal plead the Bankruptcy or Insolvency.

Bankruptcy
and Insol-
vency of
Plaintiff,
when not to
abate Ac-
tion.

15 & 16 Vict.
c. 76. s. 142.

And with respect to the Proceedings upon Motions to arrest the Judgment, and for Judgment Non obstante veredicto, be it enacted as follows:

*Arrest of
Judgment
and Judg-
ment Non
obstante
veredicto.*

40 253. No Judgment shall be arrested, nor shall Judgment be given Non obstante veredicto, by reason of the Nonaverment of any alleged material Fact or other Cause, unless the Party insisting on

Upon Mo-
tion in Ar-
rest of Judg-

ment Non
obstante
veredicto,
omitted
Facts may,
by Leave of
the Court, be
suggested.
15 & 16 Vict.
c. 76. s. 143.
16 & 17 Vict.
c. 113. s. 163.

the Objection shall satisfy the Court that there has been an Omission of some substantial Matter of Fact, whereby the said Party may have been prejudiced in the Merits of his Case; and in such Case the Party whose Pleading is alleged or adjudged to be therein defective may, by Leave of the Court, suggest the Existence of the 5 omitted Fact or Facts or other Matter which, if true, would remedy the alleged Defect; and such Suggestion may be pleaded to by the opposite Party within Eight Days after Notice thereof, or such further Time as the Court or Judge may allow; and the Proceedings for Trial of any Issues joined upon such Pleadings shall be the same 10 as in an ordinary Action.

Judgment to
follow Re-
sult of Sug-
gestion.
15 & 16 Vict.
c. 76. s. 144.

254. If the Fact or Facts suggested be admitted or found to be true, the Party suggesting shall be entitled to such Judgment as he would have been entitled to if such Fact or Facts or Allegations had been originally stated in such Pleading and proved or admitted on 15 the Trial, together with the Costs of and occasioned by the Suggestion and Proceedings thereon; but if such Fact or Facts be found untrue, the opposite Party shall be entitled to his Costs of and occasioned by the Suggestion and Proceedings thereon, in addition to any other Costs to which he may be entitled. 20

Costs of
abortive
Issues.
15 & 16 Vict.
c. 76. s. 145.

255. Upon an Arrest of Judgment, or Judgment Non obstante veredicto, the Court shall adjudge to the Party against whom such Judgment is given the Costs occasioned by the Trial of any Issues of Fact arising out of the Pleading for Defect of which such Judgment is given, upon which such Party shall have succeeded; and 25 such Costs shall be set off against any Money or Costs adjudged to the opposite Party, and Execution may issue for the Balance, if any.

Error and Appeal.

Error to be
brought
within Six
Years.
15 & 16 Vict.
c. 76. s. 146.

And with respect to Proceedings in Error and on Appeal, be it enacted as follows: 30

256. No Judgment in any Cause shall be reversed or avoided for any Error or Defect therein, unless Error be commenced or brought and prosecuted with Effect within *Six Years* after such Judgment signed or entered of Record.

Error may
be brought
by legal Re-
presentative
of a deceased
Party.
16 & 17 Vict.
c. 113. s. 167.

257. If any Person is or shall be entitled to bring Error as Heir 35 or personal Representative of any Party, Plaintiff or Defendant, such Person may, by Leave of the Court or a Judge, enter a Suggestion of the Death, and that he is such legal Representative, which Suggestion shall be embodied in the Memorandum of Error herein-after mentioned, and shall not be traversable, but shall only be 40 subject to be set aside on Application to the Court or a Judge, on Motion,

Motion, if untrue, and the like Proceedings in Error may thereupon be taken at the Suit of such legal Representative.

258. If any Person that is or shall be entitled to bring Error as aforesaid is or shall be at the Time of such Title accrued within 5 the Age of Twenty-one Years, Feme Covert, or non compos mentis, then such Person shall be at liberty to bring Error as aforesaid, so as such Person commences or brings and prosecutes the same with Effect within *Six Years* after coming to or being of full Age, Discover, or of sound Memory; and if the opposite Party 10 shall, at the Time of Judgment signed or entered of Record, be beyond the Seas, then Error may be brought, provided the Proceedings be commenced and prosecuted with Effect within *Six Years* after the Return of such Party from beyond the Seas.

Proviso for Disabilities.
15 & 16 Vict.
c. 76. s. 147.

259. A Writ of Error shall not be necessary or used in any 15 Cause, and the Proceedings to Error shall be a Step in the Cause, and shall be taken in manner herein-after mentioned.

Writ of Error not necessary.
15 & 16 Vict.
c. 76. s. 148.

260. Either Party alleging Error in Law may deliver to the Master of the Court a Memorandum in Writing, in the Form contained in the Schedule (A.) to this Act annexed, marked No. 13., 20 or to the like Effect, entitled in the Court and Cause, and signed by the Party or his Attorney, alleging that there is Error in Law in the Record and Proceedings, whereupon the Master shall file such Memorandum, and deliver to the Party lodging the same a Note of the Receipt thereof; and a Copy of such Note, together with a 25 Statement of the Grounds of Error intended to be argued, may be served on the opposite Party or his Attorney.

Error in Law how brought.
15 & 16 Vict.
c. 76. s. 149.

261. Proceedings in Error in Law shall be deemed a Supersedeas of Execution from the Time of the Service of the Copy of such Note, together with the Statement of the Grounds of Error intended 30 to be argued until Default in putting in Bail, or an Affirmance of the Judgment, or Discontinuance of the Proceedings in Error, or until the Proceedings in Error shall be otherwise disposed of without a Reversal of the Judgment: Provided always, that if the Grounds of Error shall appear to be frivolous, the Court or a Judge, upon 35 Motion, may order Execution to issue.

Error not Supersedeas till Service of the Copy of the Note and Grounds of Error.
15 & 16 Vict.
c. 76. s. 150.

262. Upon any Judgment hereafter to be given in any of the said Superior Courts of Common Law in any Action, Execution shall not be stayed or delayed by Proceedings in Error, or Supersedeas thereupon, without the special Order of the Court or a Judge,

Bail in Error
15 & 16 Vict.
c. 76. s. 151.

unless the Person in whose Name such Proceedings in Error be brought, with Two or, by Leave of the Court or a Judge, more than Two sufficient Sureties, such as the Court (wherein such Judgment is or shall be given) or a Judge shall allow of, shall within Four clear Days after lodging the Memorandum alleging Error, or after 5 the signing of the Judgment, whichever shall last happen, or before Execution executed, be bound unto the Party for whom any such Judgment is or shall be given, by Recognizance to be acknowledged in the same Court, in double the Sum adjudged to be recovered by the said Judgment (except in case of a Penalty, and in case of a 10 Penalty in double the Sum really due, and double the Costs), to prosecute the Proceedings in Error with Effect, and also to satisfy and pay (if the said Judgment be affirmed, or the Proceedings in Error be discontinued by the Plaintiff therein), all and singular the Sum or Sums of Money and Costs adjudged or to be adjudged upon 15 the former Judgment, and all Costs and Damages to be also awarded for the delaying of Execution, and shall give Notice thereof to the Defendant in Error, or his Attorney.

Suggestions
instead of
Assignment
of and Joinder
in Error.
15 & 16 Vict.
c. 76. s. 152.

263. The Assignment of and Joinder in Error in Law shall not be necessary or used, and instead thereof a Suggestion to the 20 Effect that Error is alleged by the one Party and denied by the other may be entered on the Judgment Roll in the Form contained in Schedule (A.) to this Act annexed, marked No. 14., or to the like Effect: Provided that in case the Defendant in Error intends to rely upon the Proceeding in Error being barred by Lapse of Time, 25 or by Release of Error, or other like Matter of Fact, he may give Four Days written Notice to the Plaintiff in Error to assign Error as heretofore instead of entering the Suggestion; and he shall, within Eight Days, plead thereto the Bar by Lapse of Time, or Release of Error, or other like Matter of Fact; and thereupon such 30 Proceedings may be had as heretofore.

Roll to be
made up and
Suggestion
entered by
Plaintiff in
Error.
15 & 16 Vict.
c. 76. s. 153.

264. The Roll shall be made up, and the Suggestion last aforesaid entered by the Plaintiff in Error within Ten Days after the Service of the Note of the Receipt of the Memorandum alleging Error, or within such other Time as the Court or a Judge may 35 order; and in default thereof, or of Assignment of Error in Cases where an Assignment is required, the Defendant in Error, his Executors or Administrators, shall be at liberty to sign Judgment of Non pros.

Error
brought by
One of
several Per-

265. In case Error be brought upon a Judgment given against 40 several Persons, and One or some only shall proceed in Error, the Memorandum alleging Error and the Note of the Receipt of such Memorandum

Memorandum, shall state the Names of the Persons by whom the Proceedings are taken; and in case the other Persons against whom Judgment has been given decline to join in the Proceedings in Error the same may be continued, and the Suggestion last aforesaid entered, stating the Persons by whom the Proceedings are brought without any Summons and Severance, or if such other Persons elect to join then the Suggestion shall state them to be and they shall be deemed as Plaintiffs in Error, although not mentioned as such in the previous Proceedings.

sons against whom Judgment has been given.
15 & 16 Vict.
c. 76. s. 154.

266. Upon such Suggestion of Error alleged and denied being entered, the Cause may be set down for Argument in the Court of Error in the Manner heretofore used; and the Judgment Roll shall, without any Writ or Return, be brought by the Master into the Court of Error in the Exchequer Chamber, before the Justices, or Justices and Barons, as the Case may be, of the other Two Superior Courts of Common Law, on the Day of its sitting, at such Time as the Judges shall appoint, either in Term or in Vacation; and the Court of Error shall and may thereupon review the Proceedings, and give Judgment as they shall be advised thereon; and such Proceedings and Judgment, as altered or affirmed, shall be entered on the original Record; and such further Proceedings as may be necessary thereon shall be awarded by the Court in which the original Judgment was given; provided, however, that in case of Error to the High Court of Parliament a Transcript of the Record shall be prepared and forwarded in the Manner heretofore used.

Judgment Roll to be brought into Court instead of Transcript.
15 & 16 Vict.
c. 76. s. 155.

267. Courts of Error shall have Power to quash the Proceedings in Error in all Cases in which Error does not lie, or where they are taken against good Faith, or in any Case in which Proceedings in Error might heretofore have been quashed by such Courts; and such Courts shall in all respects have such Jurisdiction over the Proceedings as over the Proceedings in Error commenced by Writ of Error, and shall have Authority to make an Order for Payment of Interest for Delay of Execution, whether the Judgment of the Court from which Error is brought be affirmed or reversed.

Jurisdiction of Courts of Error over the Proceedings.
15 & 16 Vict.
c. 76. s. 156.

268. Courts of Error shall in all Cases have Power to give such Judgment and award such Process as the Court from which Error is brought ought to have done, without regard to the Party alleging Error.

Court of Error to have like Powers with Court below.
15 & 16 Vict.
c. 76. s. 157.

269. Either Party alleging Error in Fact may deliver to the Master of the Court a Memorandum in Writing, in the Form contained in the Schedule (A.) to this Act annexed marked No. 15., or

Proceedings in Error in Fact.
15 & 16 Vict.
c. 76. s. 158.

to the like Effect, entitled in the Court and Cause, and signed by the Party or his Attorney, alleging that there is Error in Fact in the Proceedings, together with an Affidavit of the Matter of Fact in which the alleged Error consists; whereupon the Master shall file such Memorandum and Affidavit, and deliver to the Party 5 lodging the same a Note of the Receipt thereof; and a Copy of such Note and Affidavit may be served on the opposite Party or his Attorney, and such Service shall have the same Effect, and the same Proceedings may be had thereafter, as prior to the Commencement of the "Common Law Procedure Amendment Act (Ireland), 1853," 10 were had after the Service of the Rule for Allowance of a Writ of Error in Fact.

Plaintiff may
discontinue
Proceedings
in Error.

15 & 16 Vict.
c. 76. s. 159.

270. The Plaintiff in Error, whether in Fact or Law, shall be at liberty to discontinue his Proceedings by giving to the Defendant in Error a Notice headed in the Court and Cause, and signed by the 15 Plaintiff in Error or his Attorney, stating that he discontinues such Proceedings, and thereupon the Defendant in Error may sign Judgment for the Costs of and occasioned by the Proceedings in Error, and may proceed upon the Judgment on which the Error was brought. 20

Defendant
may confess
Error, and
consent to
Reversal of
Judgment.

15 & 16 Vict.
c. 76. s. 160.

271. The Defendant in Error, whether in Fact or Law, shall be at liberty to confess Error, and consent to the Reversal of the Judgment, by giving to the Plaintiff in Error a Notice, headed in the Court and Cause, and signed by the Defendant in Error or his Attorney, stating that he confesses the Error, and consents to the 25 Reversal of the Judgment, and thereupon the Plaintiff in Error shall be entitled to and may forthwith sign a Judgment of Reversal.

Death of
Plaintiff in
Error no
Abatement.

15 & 16 Vict.
c. 76. s. 161.

272. The Death of a Plaintiff in Error after Service of the Note of the Receipt of the Memorandum alleging Error, with a State- 30 ment of the Grounds of Error, shall not cause the Proceedings to abate, but they may be continued as herein-after mentioned.

Providing
for Death of
One of several
Plaintiffs
in Error.

15 & 16 Vict.
c. 76. s. 162.

273. In case of the Death of One of several Plaintiffs in Error, a Suggestion may be made of the Death, which Suggestion shall not be traversable, but shall only be subject to be set aside if untrue, 35 and the Proceedings may thereupon be continued at the Suit of and against the surviving Plaintiff in Error as if he were the sole Plaintiff.

Proceedings
upon Death
of sole Plain-

274. In case of the Death of a sole Plaintiff or of several Plaintiffs in Error, the legal Representative of such Plaintiff or of 40 the

the surviving Plaintiff may, by Leave of the Court or a Judge, enter a Suggestion of the Death, and that he is such legal Representative, which Suggestion shall not be traversable, but shall only be subject

tiff or of all the Plaintiffs in Error.

15 & 16 Vict. c. 76. s. 163.

5 continued at the Suit of and against such legal Representative as the Plaintiff in Error; and if no such Suggestion shall be made the Defendant in Error may proceed to an Affirmance of the Judgment according to the Practice of the Court, or take such other Proceedings thereupon as he may be entitled to.

10 **275.** The Death of a Defendant in Error shall not cause the Proceedings to abate, but they may be continued as herein-after mentioned.

Death of Defendant in Error no Abatement. 15 & 16 Vict. c. 76. s. 164.

276. In case of the Death of One of several Defendants in Error, a Suggestion may be made of the Death, which Suggestion shall not be traversable, but only be subject to be set aside if untrue, and the Proceedings may be continued against the surviving Defendant.

Proceedings upon Death of One of several Defendants in Error. 15 & 16 Vict. c. 76. s. 165.

277. In case of the Death of a sole Defendant, or of all the Defendants in Error the Plaintiff in Error may proceed upon giving Ten Days Notice of the Proceedings in Error, and of his Intention to continue the same, to the Representatives of the deceased Defendants, or if no such Notice can be given, then, by Leave of the Court or a Judge, upon giving such Notice to the Parties interested as he or they may direct.

Proceedings upon Death of sole Defendant or of all the Defendants in Error. 15 & 16 Vict. c. 76. s. 166.

25 **278.** The Marriage of a Woman, Plaintiff or Defendant in Error, shall not abate the Proceedings in Error, but the same may be continued in like Manner as herein-before provided with reference to the Continuance of an Action after Marriage.

Marriage not to abate Proceedings in Error. 15 & 16 Vict. c. 76. s. 167.

30 **279.** In every Rule Nisi for a new Trial or to enter a Verdict or Nonsuit, the Grounds upon which such Rule shall have been granted shall be shortly stated therein.

Grounds to be stated in Rule Nisi for new Trial. 17 & 18 Vict. c. 125. s. 33.

280. In all Cases of Rules to enter a Verdict or Nonsuit upon a Point reserved at the Trial, if the Rule to show Cause be refused or granted, and then discharged or made absolute, the Party decided against may appeal.

If Rule Nisi refused, Party may appeal. 17 & 18 Vict. c. 125. s. 34.

281. In all Cases of Motions for a new Trial upon the Ground that the Judge has not ruled according to Law, if the Rule to show Cause be refused, or if granted be then discharged or made absolute,

Appeal upon Rule discharged or absolute.

17 & 18 Vict.
c. 125. s. 35

the Party decided against may appeal, provided any One of the Judges dissent from the Rule being refused, or, when granted, being discharged or made absolute, as the Case may be, or provided the Court in its Discretion think fit that an Appeal should be allowed; provided that where the Application for a new Trial is upon Matter of Discretion only, as on the Ground that the Verdict was against the Weight of Evidence or otherwise, no such Appeal shall be allowed.

Courts of
Error to be
Courts of
Appeal.

17 & 18 Vict.
c. 125. s. 36.

Notice of
Appeal.

17 & 18 Vict.
c. 125. s. 37.

282. The Court of Exchequer Chamber and the House of Lords shall be Courts of Appeal for the Purposes of this Act.

10

283. No Appeal shall be allowed unless Notice thereof be given in Writing to the opposite Party or his Attorney, and to the Master of the Court, within Four Days after the Decision complained of, or such further Time as may be allowed by the Court or a Judge.

Bail.

17 & 18 Vict.
c. 125. s. 38.

284. Notice of Appeal shall be a Stay of Execution, provided Bail to pay the Sum recovered and Costs, or to pay Costs where the Appellant was Plaintiff below, be given in like Manner and to the same Amount as Bail in Error, within Eight Days after the Decision complained of, or before Execution delivered to the Sheriff.

Form of
Appeal.

17 & 18 Vict.
c. 125. s. 39.

285. The Appeal herein-before mentioned shall be upon a Case to be stated by the Parties (and in case of Difference to be settled by the Court or a Judge of the Court appealed from), in which Case shall be set forth so much of the Pleadings, Evidence, and the Ruling or Judgment objected to, as may be necessary to raise the Question for the Decision of the Court of Appeal.

25

Rule Nisi
granted on
Appeal, how
disposed of.

17 & 18 Vict.
c. 125. s. 40.

286. When the Appeal is from the Refusal of the Court below to grant a Rule to show Cause, and the Court of Appeal grant such Rule, such Rule shall be argued and disposed of in the Court of Appeal.

Judgment of
Court of
Appeal.

17 & 18 Vict.
c. 125. s. 41.

287. The Court of Appeal shall give such Judgment as ought to have been given in the Court below, and shall have Power to remit the Cause with such Directions as they shall think proper; and all such further Proceedings may be taken thereupon as if the Judgment had been given by the Court in which the Record originated.

35

Powers of
Court of
Appeal as to
Costs and
otherwise.

17 & 18 Vict.
c. 125. s. 42.

288. The Court of Appeal shall have Power to adjudge Payment of Costs and to order Restitution, and they shall have the same Powers as the Court of Error in respect of awarding Process and otherwise.

289. Upon

289. Upon an Award of a Trial de novo by any One of the Superior Courts, or by the Court of Error, upon Matter appearing upon the Record, Error may at once be brought, and if the Judgment in such or any other Case be affirmed in Error, it shall be lawful for the Court of Error to adjudge Costs to the Defendant in Error.

Error upon
Award of
Trial de
novo.
17 & 18 Vict.
c. 125. s. 43.

290. When a new Trial is granted on the Ground that the Verdict was against Evidence, the Costs of the First Trial shall abide the Event, unless the Court shall otherwise order.

Payment of
Costs upon
new Trial on
Matter of
Fact.
17 & 18 Vict.
c. 125. s. 43.

10 And with respect to Interpleader, be it enacted as follows :

Interpleader.

291. Where an Action has been commenced in respect of a Common Law Claim for the Recovery of Money or Goods, or where Goods or Chattels have been taken or are intended to be taken in Execution under Process issued from any One of the Superior
15 Courts, and the Defendant in such Action, or the Sheriff or other Officer, has applied for Relief under the Provisions of an Act made and passed in the Session of Parliament held in the Ninth and Tenth Years of the Reign of Her present Majesty, intituled " An
20 " Act to enable Courts of Law to give Relief against adverse " Claims made upon Persons having no Interest in the Subject of " such Claims," it shall be lawful for the Court or a Judge to whom such Application is made to exercise all the Powers and Authorities given to them by this Act in Cases of Interpleader, and the herein-before mentioned Act passed in the Session of Parlia-
25 ment held in the Ninth and Tenth Years of the Reign of Her present Majesty, though the Titles of the Claimants to the Money, Goods, or Chattels in question, or to the Proceeds or Value thereof, have not a common Origin, but are adverse to and independent of one another.

Interpleader
may be
granted,
though Titles
have not a
common
Origin.
23 & 24 Vict.
c. 126. s. 12.

30 **292.** When Goods or Chattels have been seized in Execution by a Sheriff or other Officer under Process of the above-mentioned Courts, and some Third Person claims to be entitled under a Bill of Sale or otherwise to such Goods or Chattels by way of Security for a Debt, the Court or a Judge may order a Sale of the whole
35 or Part thereof, upon such Terms as to Payment of the whole or Part of the secured Debt or otherwise as they or he shall think fit, and may direct the Application of the Proceeds of such Sale in such Manner and upon such Terms as to such Court or Judge may seem just.

Court or
Judge may
direct Sale
of Goods
seized in
Execution.
23 & 24 Vict.
c. 126. s. 13.

40 **293.** Upon the hearing of any Rule or Order calling upon Persons to appear and state the Nature and Particulars of their
[48.] K 2 Claims,

Power to
Court or
Judge to

decide
summarily
in certain
Cases.

23 & 24 Vict.
c. 126. s. 14.

Claims, it shall be lawful for the Court or Judge, wherever from the Smallness of the Amount in dispute, or of the Value of the Goods seized, it shall appear to them or him desirable and right so to do, at the Request of either Party, to dispose of the Merits of the respective Claims of such Parties, and to determine the same in a summary Manner, upon such Terms as they or he shall think fit to impose, and to make such other Rules and Orders therein, as to Costs and all other Matters, as may be just. 5

Special Case
may be
stated where
Facts un-
disputed.

23 & 24 Vict.
c. 126. ss. 15,
16.

294. In all Cases of Interpleader Proceedings, where the Question is one of Law, and the Facts are not in dispute, the Court or Judge shall be at liberty, at their or his Discretion, to decide the Question without directing an Action or Issue, and, if they or he shall think it desirable, to order that a special Case be stated for the Opinion of the Court, and Error may be brought upon a Judgment on such Case, and the Provisions of this Act relating to Proceedings upon special Cases, and the bringing of Error thereon, shall extend to the Proceedings upon such special Case, and to the bringing of Error thereon. 10 15

Judgment
and Decision
when to be
final.

23 & 24 Vict.
c. 126. s. 17.

295. The Judgment in any such Action or Issue as may be directed by the Court or a Judge in any Interpleader Proceedings, and the Decision of the Court or Judge in a summary Manner, shall be final and conclusive against the Parties, and all Persons claiming by, from, or under them. 20

General
Provisions .
to apply to
Interpleader.

296. The Provisions of this Act relating to Inspection, Discovery, Appeal, and otherwise shall extend to Interpleader Proceedings, mutatis mutandis, unless where the same shall not be applicable, or where otherwise specially provided by this Act; and the Court or Judge may, in relation to the Service of any Rule or Order, exercise such or the like Powers as are contained in the Sixteenth, Seventeenth, Eighteenth, and Nineteenth Sections of this Act in relation to the Service of Writs in personal Actions. 25 30

Rules,
Orders, &c.
made in
Interpleader
Proceedings
may be
entered of
Record and
made Evi-
dence.

23 & 24 Vict.
c. 126. s. 18.

297. All Rules, Orders, Matters, and Decisions to be made and done in Interpleader Proceedings under this Act may, together with the Declaration in the Cause, if any, be entered of Record, with a Note in the Margin expressing the true Date of such Entry, to the end that the same may be Evidence in future Times, if required, and to secure and enforce the Payment of Costs directed by any such Rule or Order; and every such Rule or Order so entered shall have the Force and Effect of a Judgment in the Superior Courts of Common Law. 35 40

And

And with respect to summary Procedure upon Bills of Exchange and Promissory Notes, be it enacted as follows :

- 298.** All Actions upon Bills of Exchange or Promissory Notes commenced within Six Months after the same shall have become
 5 due and payable may be by Writ of Summons in the special Form contained in Schedule (A.) No. 16. to this Act annexed, and endorsed as therein mentioned; and it shall be lawful for the Plaintiff, on filing an Affidavit of personal Service of such Writ within the Jurisdiction of the Court, or an Order for Leave to proceed, as herein-
 10 before provided, or, in the Case of Service substituted under the Provisions of this Act, the Order directing such Substitution of Service, and an Affidavit and such Documents as may be necessary for the Purpose of showing that the Directions of such Order have been complied with, and a Copy of the Writ of Summons and the
 15 Endorsements thereon, in case the Defendant shall not have obtained Leave to appear, and have appeared to such Writ according to the Exigency thereof, at once to sign Final Judgment, in the Form in Schedule (A.) No. 17. to this Act annexed (on which Judgment no Proceeding in Error shall lie), for any Sum not exceeding the Sum
 20 endorsed on the Writ, together with Interest, at the Rate specified (if any), to the Date of the Judgment, and a Sum for Costs to be fixed by a General Order to be made as herein-after mentioned, unless the Plaintiff claim more than such fixed Sum, in which Case the Costs shall be taxed in the ordinary Way, and the Plaintiff may
 25 upon such Judgment issue Execution forthwith.

Summary Procedure upon Bills of Exchange and Promissory Notes.

Actions upon Bills of Exchange, &c. may in certain Cases be commenced by Writ of Summons as Form in Schedule (A.) Plaintiff, on filing Affidavit of personal Service, may at once sign Final Judgment as Form in Schedule (A.) 18 & 19 Vict. c. 67. s. 1.

- 299.** The Court into which such Writ shall be returnable, or a Judge, shall, upon Application within the Period of Twelve Days from such Service, give Leave to appear to such Writ, and to defend the Action, on the Defendant paying into Court the Sum endorsed
 30 on the Writ, or upon Affidavits satisfactory to the Court or Judge, which disclose a legal or equitable Defence, or such Facts as would make it incumbent on the Holder to prove Consideration, or such other Facts as the Court or Judge may deem sufficient to support the Application, and on such Terms as to Security or otherwise
 35 as to the Court or Judge may seem fit.

Defendant showing a Defence upon the Merits to have Leave to appear. 18 & 19 Vict. c. 67. s. 2.

- 300.** After Judgment the Court or a Judge may, under special Circumstances, set aside the Judgment, and, if necessary, stay or set aside the Execution, and may give Leave to appear to the Writ, and to defend the Action, if it shall appear to be reasonable to the
 40 Court or Judge so to do, and on such Terms as to the Court or Judge may seem just.

Judge may, under special Circumstances, set aside Judgment. 18 & 19 Vict. c. 67. s. 3.

- 301.** In all Cases of summary Procedure on Bills of Exchange and Promissory Notes under this Act, it shall be competent to the
 [48.] K 3 Court

Judge may order Bill to be deposited

with Officer
of Court
in certain
Cases.
18 & 19 Vict.
c. 67. s. 4.

Court or a Judge to order the Bill or Note sought to be proceeded upon to be forthwith deposited with an Officer of the Court, and further to order that all Proceedings shall be stayed until the Plaintiff shall have given Security for the Costs thereof.

Remedy for
the Recovery
Expenses of
of noting
Non-acceptance
of dishonoured
Bill.
13 & 19 Vict.
c. 67. s. 5.

302. The Holder of every dishonoured Bill of Exchange or Promissory Note shall have the same Remedies for the Recovery of the Expenses incurred in noting the same for Non-acceptance or Nonpayment, or otherwise, by reason of such Dishonour, as he has under this Act for the Recovery of the Amount of such Bill or Note.

5
10

Holder of
Bill of Ex-
change may
issue One
Summons
against all
or any of
the Parties
to the Bill.
18 & 19 Vict.
c. 67. s. 6.

303. The Holder of any Bill of Exchange or Promissory Note may, if he think fit, issue One Writ of Summons according to this Act, against all or any Number of the Parties to such Bill or Note, and such Writ of Summons shall be the Commencement of an Action or Actions against the Parties therein named respectively, and all subsequent Proceedings against such respective Parties shall be in like Manner, so far as may be, as if separate Writs of Summons had been issued.

15

Ejectment.

And with respect to the Action of Ejectment, be it enacted as follows :

20

Ejectment
to be com-
menced by
Writ of
Summons.
16 & 17 Vict.
c. 113. s. 194.

304. Where any Party shall claim Possession of any Lands, Tenements, or Hereditaments, and shall be desirous of proceeding by Ejectment for the Recovery of the same in any of the said Superior Courts of Common Law, such Party shall commence any Action for such Purpose by a Writ of Summons, which Writ shall be directed to the immediate Tenant or any One Tenant in possession, as Defendant, with the Addition of the Words "and all Persons concerned," and shall contain the Description of the Property sought to be recovered with reasonable Certainty, and the County and the Barony or Parish in which the same is situated.

25

30

Form and
Duration of
Writ of
Ejectment.
15 & 16 Vict.
c. 76. s. 169.

305. The Writ shall state the Names of all the Persons in whom the Title is alleged to be, and command the Persons to whom it is directed to appear within Sixteen Days after Service thereof in the Court into which it is returnable, to defend the Possession of the Property sued for, or such Part thereof as they may think fit, and it shall contain a Notice that in default of Appearance they will be turned out of possession; and the Writ shall bear Teste of the Day on which it is issued, and shall be in force for *Three Months*, and shall be in the Form contained in the Schedule (A.) to this Act annexed, marked No. 18., or to the like Effect; and in Cases of Ejectment on the Title the Writ shall be endorsed with the

35

40

Par-

Particulars of the Sum (if any) claimed as Damages for the Loss of the mesne Rates and Profits of the Lands sought to be recovered; and in Cases of Ejectment for Nonpayment of Rent such Writ shall be endorsed with full Particulars of the Rent due and of all Credits
 5 to which the Defendant shall be justly entitled; and the Name and Abode of the Attorney issuing the same, or, if no Attorney, the Name and Residence of the Party shall be endorsed thereon, in like Manner as herein-before enacted with reference to the Endorsements on a Writ of Summons in a personal Action; and the same Pro-
 10 ceedings may be had to ascertain whether the Writ was issued by the Authority of the Attorney whose Name was endorsed thereon, and who and what the Claimants are, and their Abode, and as to staying the Proceedings upon Writs issued without Authority, as in the Case of Writs in personal Actions, and the Provisions of the
 15 Third Section of this Act in relation to the Rotation of Writs shall be deemed to apply to and include Writs of Summons in Ejectment.

306. The Writ of Summons in Ejectment for Nonpayment of Rent shall be served on the Tenant sought to be evicted, and on
 20 every Person in possession or in receipt of the Rents and Profits of the Land sought to be recovered, or any Part thereof, and also on any Mortgagee of such Lands, whose Mortgage shall have been registered within *Six Calendar Months* from the Perfection thereof, and also on the Assignee of any such Mortgagee whose Assignment
 25 shall have been in like Manner registered, or upon such Person or Persons as shall be directed by General Orders to be made in the Manner herein-after provided.

Writ in Ejectment for Non-payment of Rent, upon whom to be served.

307. The Writ shall be served in the same Manner as an Ejectment has heretofore been served, or in such Manner as shall be
 30 directed by General Orders to be made in the Manner herein-after provided; and in case of vacant Possession the Writ may be served by posting a Copy thereof upon the Door of the Dwelling House or other conspicuous Part of the Property; and the Court or Judge may, in relation to the Service of such Writ, exercise such or the
 35 like Powers as are contained in the Sixteenth, Seventeenth, Eighteenth, and Nineteenth Sections of this Act, in relation to the Service of Writs in personal Actions.

Service of Writ of Ejectment. 15 & 16 Vict. c. 76. s. 170.

308. The Persons named as Defendants in such Writ, or any of them, shall be allowed to appear within the Time appointed.

Appearance of Persons named in the Writ. 15 & 16 Vict. c. 76. s. 171.

309. Any other Person not named in such Writ shall, by Leave of the Court or a Judge, be allowed to appear and defend, on filing
 [48.] K 4 an

Appearance of Persons not named.

15 & 16 Vict. c. 76. s. 172. an Affidavit showing that he is in possession of the Land either by himself or his Tenant.

Appearance and Defence by Landlord. 15 & 16 Vict. c. 76. s. 173. **310.** Any Person appearing to defend as Landlord in respect of Property whereof he is in possession only by his Tenant shall state in his Appearance that he appears as Landlord; and such Person shall be at liberty to set up any Defence which a Landlord appearing in an Action of Ejectment has heretofore been allowed to set up, and no other.

Notice to defend for Part only. 15 & 16 Vict. c. 76. s. 174. **311.** Any Person appearing to such Writ shall be at liberty to limit his Defence to a Part only of the Property mentioned in the Writ, describing that Part with reasonable Certainty in a Notice intituled in the Court and Cause, and signed by the Party appearing or his Attorney; such Notice to be served within Four Days after Appearance upon the Attorney whose Name is endorsed on the Writ, if any, and if none, then to be filed in the Master's Office; and an Appearance without such Notice confining the Defence to Part shall be deemed an Appearance to defend for the whole; but a Defence to an Ejectment for Nonpayment of Rent shall be a Defence for all the Lands in the Writ of Summons mentioned, and in case a Defendant shall desire to take Defence for Part only of the Lands, upon the Ground that such Part was not included in the Estate or Interest sought to be evicted, he shall make a special Application to the Court for that Purpose.

Want of Certainty cured by Particulars. 15 & 16 Vict. c. 76. s. 175. **312.** Want of "reasonable Certainty" in the Description of the Property, or Part of it, in the Writ or Notice, shall not nullify them, but shall only be Ground for an Application to the Court or a Judge for better Particulars of the Land claimed or defended, which the Court or a Judge shall have Power to give in all Cases.

Defence by Persons not in possession. 15 & 16 Vict. c. 76. s. 176. **313.** The Court or a Judge shall have Power to strike out or confine Appearances and Defences set up by Persons not in possession by themselves or their Tenants.

Judgment for Default of Appearance or Defence. 15 & 16 Vict. c. 76. s. 177. **314.** In case no Appearance shall be entered within the Time appointed, or if an Appearance be entered, but the Defence be limited to Part only, the Plaintiffs shall be at liberty to sign a Judgment that the Person whose Title is asserted in the Writ shall recover Possession of the Land, or of the Part thereof to which the Defence does not apply; which Judgment, if for all, may be in the Form contained in the Schedule (A.) to this Act annexed marked No. 19., or to the like Effect, and if for Part may be in the Form contained in the Schedule (A.) to this Act annexed marked No. 20., or to the like Effect.

315. In

315. In case an Appearance shall be entered, an Issue may at once be made up, without any Pleadings, by the Claimants or their Attorney, setting forth the Writ, and stating the Fact of the Appearance, with its Date, and the Notice limiting the Defence, if
5 any, of each of the Persons appearing, so that it may appear for what Defence is made, and directing the Sheriff to summon a Jury; and such Issue, in case Defence is made for the whole, may be in the Form contained in Schedule (A.) to this Act annexed marked No. 21., or to the like Effect, and in case Defence is made for Part,
10 may be in the Form contained in the Schedule (A.) to this Act annexed marked No. 20., or to the like Effect.

Issue how made up.
15 & 16 Vict.
c. 76. s. 178.

316. By Consent of the Parties, and by Leave of the Court or a Judge, a Special Case may be stated according to the Practice heretofore prescribed in reference to personal Actions.

317. The Claimants may if no Special Case be agreed to, proceed to Trial upon the Issue in the same Manner as in other Actions; and the Particulars of the Claim and Defence, if any, or Copies thereof, shall be annexed to the Record by the Claimants; and the Question at the Trial shall, except in the Cases herein-after mentioned, be whether the Statement in the Writ of the Title of the Claimants is true or false, and if true then which of the Claimants is entitled, and whether to the whole or Part, and if to Part, then to which Part of the Property in question, and whether to any, and if any to what Damages, by way of Compensation, for Loss of
20 mesne Rates and Profits; and upon the Trial of an Ejectment for Nonpayment of Rent the Amount of the Rent due to the Claimant shall be found by the Jury, and the Entry of the Verdict may be made in the Form contained in the Schedule (A.) to this Act annexed marked No. 22., or to the like Effect, with such Modifications as may be necessary to meet the Facts.

Special Case may be stated.
15 & 16 Vict.
c. 76. s. 179.

Trial of Issue.
15 & 16 Vict.
c. 76. s. 180.

16 & 17 Vict.
c. 113. s. 202.

318. In case the Title of the Claimant shall appear to have existed as alleged in the Writ, and at the Time of Service thereof, but it shall also appear to have expired before the Time of Trial, the Claimant shall, notwithstanding, be entitled to a Verdict
35 according to the Fact that he was so entitled at the Time of bringing the Action and serving the Writ, and to a Judgment for his Costs of Suit.

Verdict when Title appears to have expired before Trial.
15 & 16 Vict.
c. 76. s. 181.

319. The Court or a Judge may on the Application of either Party order that the Trial shall take place in any County or Place
40 other than that in which the Venue is laid; and such Order being suggested on the Record the Trial may be had accordingly.

Trial may be ordered to take place in any County.
15 & 16 Vict.
c. 76. s. 182.

[48.]

L

320. If

Nonappear-
ance at
Trial.

15 & 16 Vict.
c. 76. s. 183.

320. If the Defendant appears and the Claimant does not appear at the Trial, the Claimant shall be nonsuited; and if the Claimant appears and the Defendant does not appear the Claimant shall be entitled to recover as heretofore, without any Proof of his Title; and in case of Ejectment on the Title shall be entitled to 5 prove the Amount of Damages sustained by reason of the Loss of the mesne Rates and Profits, and in case of an Ejectment for Nonpayment of Rent, shall be entitled to prove the Amount of Rent actually due, and to have a Verdict for the same with Judgment for his Costs of Suit. 10

Mesne Rates
may be re-
covered by
Ejectment
to the Day
of Trial.

23 & 24 Vict.
c. 154. s. 77.

321. In all such Ejectments as herein-after mentioned the Jury shall be at liberty to give Compensation for the Loss of Mesne Rates and Profits; in Ejectments on the Title in which Mesne Rates are claimed, from the Commencement of the Action, and in Eject- 15 ments for Nonpayment of Rent, from the Day up to which the Rent claimed by the Ejectment accrued due, and in both Cases down to the Day of Trial.

Ascertain-
ment of
Rent.

16 & 17 Vict.
c. 113. s. 206.

322. In Ejectment for Nonpayment of Rent, where Judgment shall have gone by Default, or the Defendant shall not appear at the Trial, it shall be sufficient for the Purpose of ascertaining the 20 Amount of the Rent due, and to satisfy the Provisions of the Statutes with respect to ascertaining the Rent, that an Affidavit be made by the Plaintiffs, or One of them, or their or his Agent, to the Effect that an Amount of Rent not less than One Year's Rent, and specifying the same, was due at the Time of the Commencement of 25 the Action after all just Allowances.

Special
Verdict and
Bill of Ex-
ceptions.

15 & 16 Vict.
c. 76. s. 184.

323. The Jury may find a special Verdict, or either Party may tender a Bill of Exceptions.

Judgment
and Execu-
tion upon
Finding for
Claimant.

16 & 17 Vict.
c. 113. s. 207.

324. Upon a Finding for the Claimant Judgment may be signed and Execution issued for the Recovery of Possession of the Pro- 30 perty or such Part thereof as the Jury shall find the Claimant entitled to and in case of Ejectment on the Title for such Damages for Loss of mesne Rates and Profits as shall be found by the said Jury, and in case of Ejectment for Nonpayment of Rent for Recovery of so much Rent as shall be found to be due, and 35 Costs, within such Time, not exceeding the Fifth Day in Term after the Verdict, as the Court or Judge before whom the Cause is tried shall order, and if no such Order be made then on the *Fifth Day* in Term after the Verdict, or within *Fourteen Days* after such Verdict, whichever first shall happen. 40

325. Upon

325. Upon a Finding for the Defendants, or any of them, or upon a Nonsuit, Judgment may be signed and Execution issued for Costs against the Claimants named in the Writ, within such Time, not exceeding the Fifth Day in Term after the Verdict or Nonsuit, as the Court or Judge before whom the Cause is tried shall order; and if no such Order be made then on the *Fifth Day* in Term after the Verdict or Nonsuit, or within *Fourteen Days* after such Verdict or Nonsuit, whichever shall first happen.

Judgment upon Finding for Defendant.

15 & 16 Vict. c. 76. s. 186.

326. Upon any Judgment in Ejectment there may be either One or separate Writs of Execution for the Recovery of the Possession and for the Damages or the Rent ascertained to be due, and Costs, at the Election of the Claimant.

Execution for Recovery of Possession and Costs may be joint and separate.

16 & 17 Vict. c. 113. s. 209.

327. In case of such an Action being brought by some or One of several Persons entitled as Joint Tenants, Tenants in Common, or Coparceners, any Joint Tenant, Tenant in Common, or Coparcener in possession may, at the Time of Appearance, or within Four Days after, give Notice, in the same Form as in the Notice of a limited Defence, that he or she defends as such and admits the Right of the Claimant to an undivided Share of the Property (stating what Share), but denies any actual Ouster of him from the Property, and may within the same Time file an Affidavit stating with reasonable Certainty that he or she is such Joint Tenant, Tenant in Common, or Coparcener, and the Share of such Property to which he or she is entitled, and that he or she has not ousted the Claimant; and such Notice shall be entered in the Issue in the same Manner as the Notice limiting the Defence, and upon the Trial of such an Issue the additional Question of whether an actual Ouster has taken place shall be tried.

Defence by Joint Tenants, Tenants in Common, Coparceners. 15 & 16 Vict. c. 76. s. 188.

328. Upon the Trial of such Issue as last aforesaid, if it shall be found that the Defendant is Joint Tenant, Tenant in Common, or Coparcener with the Claimant, then the Question whether an actual Ouster has taken place shall be tried, and unless such actual Ouster shall be proved the Defendant shall be entitled to Judgment and Costs; but if it shall be found either that the Defendant is not such Joint Tenant, Tenant in Common, or Coparcener, or that an Ouster has taken place, then the Claimant shall be entitled to such Judgment for the Recovery of Possession and Costs.

Trial and Judgment in Ejectment against Joint Tenants, Tenants in Common, and Coparceners.

15 & 16 Vict. c. 76. s. 189.

329. If any Person shall bring an Action of Ejectment, after a prior Action of Ejectment for the same Premises has been or shall have been unsuccessfully brought by such Person, or by any Person through or under whom he claims, against the same Defendant, or

Claimant in Second Ejectment for same Premises against same

Defendant
may be
ordered to
give Security
for Costs.
17 & 18 Vict.
c. 125. s. 93.

against any Person through or under whom he defends, the Court or a Judge may, if they or he think fit, on the Application of the Defendant at any Time after such Defendant has appeared to the Writ, order that the Plaintiff shall give to the Defendant Security for the Payment of the Defendant's Costs, and that all further Proceedings in the Cause shall be stayed until such Security be given, whether the prior Action has been or shall have been disposed of by Discontinuance, or by Nonsuit, or by Judgment for the Defendant.

Action not
to abate by
Death.
15 & 16 Vict.
c. 76. s. 190.
Proceeding
upon Death
before Trial
where Right
survives.
15 & 16 Vict.
c. 76. s. 191.

330. The Death of a Claimant or Defendant shall not cause the Action to abate, but it may be continued as herein-after mentioned.

331. In case the Right of the deceased Claimant shall survive to another Claimant, a Suggestion may be made of the Death, which Suggestion shall not be traversable, but shall only be subject to be set aside if untrue, and the Action may proceed at the Suit of the surviving Claimant; and if such a Suggestion shall be made before the Trial, then the Claimant shall have a Verdict and recover such Judgment as aforesaid, upon its appearing that he was entitled to bring the Action either separately or jointly with the deceased Claimant.

20

Proceedings
upon Death
before Trial
where Right
does not
survive.
15 & 16 Vict.
c. 76. s. 192.

332. In case of the Death before Trial of One of several Claimants whose Right does not survive to another or others of the Claimants, where the legal Representative of the deceased Claimant shall not become a Party to the Suit in the Manner herein-after mentioned, a Suggestion may be made of the Death, which Suggestion shall not be traversable, but shall only be subject to be set aside if untrue, and the Action may proceed at the Suit of the surviving Claimant for such Share of the Property as he is entitled to and Costs.

25

Proceeding
upon Death
of One of
several
Claimants
having
obtained a
Verdict.
15 & 16 Vict.
c. 76. s. 193.

333. In case of a Verdict for Two or more Claimants, if One of such Claimants die before Execution executed, the other Claimant may, whether the legal Right to the Property shall survive or not, suggest the Death in manner aforesaid, and proceed to Judgment and Execution for Recovery of Possession of the Entirety of the Property and the Costs; but nothing herein contained shall affect the Right of the legal Representative of the deceased Claimant or the Liability of the surviving Claimant to such legal Representative; and the Entry and Possession of such surviving Claimant under such Execution shall be considered as an Entry and Possession on behalf of such legal Representative in respect of the Share of the Property to which he shall be entitled as such Representative, and the Court may direct Possession to be delivered accordingly.

35

40

334. In

334. In case of the Death of a sole Claimant, or before Trial, of One of several Claimants whose Right does not survive to another or others of the Claimants, the legal Representative of such Claimant may, by Leave of the Court or a Judge, enter a Suggestion of the Death, and that he is such legal Representative, and the Action shall thereupon proceed; and if such Suggestion be made before the Trial the Truth of the Suggestion shall be tried thereat, together with the Title of the deceased Claimant, and such Judgment shall follow upon the Verdict in favour of or against the Person making such Suggestion as herein-before provided with reference to a Judgment for or against such Claimant; and in case such Suggestion in the Case of a sole Claimant be made after Trial and before Execution, executed by Delivery of Possession thereupon, and such Suggestion be denied by the Defendant within Eight Days after Notice thereof, or such further Time as the Court or a Judge may allow, then such Suggestion shall be tried; and if upon the Trial thereof a Verdict shall pass for the Person making such Suggestion, he shall be entitled to such Judgment as aforesaid for the Recovery of Possession, and for the Costs of and occasioned by such Suggestion; and in case of a Verdict for the Defendant such Defendant shall be entitled to such Judgment as aforesaid for Costs; and in case the said Suggestion shall not be denied within the Time aforesaid the said personal Representative, on producing an Affidavit of the Service of the Notice, shall be entitled to proceed to Judgment and Execution in his own Name.

Proceedings in case of Death of Claimant where Right does not survive.
15 & 16 Vict. c. 76. s. 194.

335. In case of the Death, before or after Judgment, of One of several Defendants in Ejectment who defend jointly, a Suggestion may be made of the Death, which Suggestion shall not be traversable, but only be subject to be set aside if untrue, and the Action may proceed against the surviving Defendant to Judgment and Execution.

Proceedings upon Death of One of several joint Defendants.
15 & 16 Vict. c. 76. s. 195.

336. In case of the Death of a sole Defendant, or of all the Defendants in Ejectment, before Trial, a Suggestion may be made of the Death, which Suggestion shall not be traversable, but only be subject to be set aside if untrue; and the Claimants shall be entitled to Judgment for Recovery of Possession of the Property, unless some other Person shall appear and defend within the Time to be appointed for that Purpose by the Order of the Court or a Judge, to be made upon the Application of the Claimants; and it shall be lawful for the Court or a Judge, upon such Suggestion being made and upon such Application as aforesaid, to order that the Claimants shall be at liberty to sign Judgment within such Time as the Court or Judge may think fit, unless the Person then

Upon Death of all the Defendants in Ejectment before Trial.
15 & 16 Vict. c. 76. s. 196.

in possession, by himself or his Tenant, or the legal Representative of the deceased Defendant, shall within such Time appear and defend the Action; and such Order may be served in the same Manner as the Writ; and in case such Person shall appear and defend the same, Proceedings may be taken against such new Defendant as if he had originally appeared and defended the Action; and if no Appearance be entered and Defence made, then the Claimant shall be at liberty to sign Judgment pursuant to the Order.

Upon Death
of all De-
fendants in
Ejectment
after Ver-
dict.

15 & 16 Vict.
c. 76. s. 197.

337. In case of the Death of a sole Defendant or of all the Defendants in Ejectment after Verdict, the Claimants shall nevertheless be entitled to Judgment as if no such Death had taken place, and to proceed by Execution for Recovery of Possession without Suggestion or Revivor, and to proceed for the Recovery of the Costs, in like Manner as upon any other Judgment for Money, against the legal Representatives of the deceased Defendant or Defendants.

Upon Death
before Trial
of Defen-
dant in
Ejectment,
who defends
separately
for Part.

15 & 16 Vict.
c. 76. s. 198.

338. In case of the Death before Trial of One of several Defendants in Ejectment who defends separately for a Portion of the Property for which the other Defendant or Defendants do not defend, the same Proceedings may be taken as to such Portion as in the Case of the Death of a sole Defendant, or the Claimants may proceed against the surviving Defendants in respect of the Portion of the Property for which they defend.

Upon Death
of Defendant
defending
separately
for Property
in respect
of which
others also
defend.

15 & 16 Vict.
c. 76. s. 199.

339. In case of the Death before Trial of One of several Defendants in Ejectment who defends separately in respect of Property for which surviving Defendants also defend, it shall be lawful for the Court or a Judge at any Time before the Trial to allow the Person at the Time of the Death in possession of the Property, or the legal Representative of the deceased Defendant, to appear and defend, on such Terms as may appear reasonable and just, upon the Application of such Person or Representative; and if no such Application be made or Leave granted the Claimant suggesting the Death in manner aforesaid may proceed against the surviving Defendant or Defendants to Judgment and Execution.

Claimant
may discon-
tinue by
Notice.

15 & 16 Vict.
c. 76. s. 200.

340. The Claimant in Ejectment shall be at liberty at any Time to discontinue the Action as to One or more of the Defendants by giving to the Defendant or his Attorney a Notice headed in the Court and Cause and signed by the Claimant or his Attorney, stating that he discontinues such Action; and thereupon the Defendant to whom such Notice is given shall be entitled to and may

may forthwith sign Judgment for Costs in the Form contained in the Schedule (A.) to this Act annexed, marked No. 23. or to the like Effect.

5 **341.** In case One of several Claimants shall be desirous to discontinue, he may apply to the Court or a Judge to have his Name struck out of the Proceedings, and an Order may be made thereupon upon such Terms as to the Court or Judge may seem fit, and the Action shall thereupon proceed at the Suit of the other Claimants.

Discontinu-
ance of Ac-
tion by One
of several
Claimants.
15 & 16 Vict.
c. 76. s. 201.

10 **342.** If after Appearance entered the Claimant, without going to Trial, allow the Time allowed for going to Trial by the Prac-
tice of the Court in ordinary Cases after Issue joined to elapse, the Defendant in Ejectment may give *Twenty Days* Notice to the
Claimant to proceed to Trial at the Sittings or Assizes next after
15 the Expiration of the Notice; and if the Claimant afterwards neglects to give Notice of Trial for such Sittings or Assizes, or to proceed to Trial in pursuance of the said Notice given by the Defendant, and the Time for going to Trial shall not be extended by the Court or a Judge, the Defendant may sign Judgment in the
20 Form contained in the Schedule (A.) to this Act annexed, marked No. 24, and recover the Costs of the Defence.

Judgment
for not pro-
ceeding to
Trial after
Notice.
15 & 16 Vict.
c. 76. s. 202.

343. A sole Defendant or all the Defendants in Ejectment shall be at liberty to confess the Action as to the whole or Part of the Property, by giving to the Claimant a Notice headed in the
25 Court and Cause, and signed by the Defendant or Defendants, such Signature to be attested by his or their Attorney; and there-
upon the Claimant shall be entitled to and may forthwith sign Judgment and issue Execution for the Recovery of Possession and Costs in the Form in the Schedule (A.) to this Act annexed, marked
30 No. 25. or to the like Effect.

Defendant
may confess
the Action.
15 & 16 Vict.
c. 76. s. 203.

344. In case One of several Defendants in Ejectment, who defends separately for a Portion of the Property for which the other Defendant or Defendants do not defend, shall be desirous of confessing the Claimant's Title to such Portion, he may give a like
35 Notice to the Claimant, and thereupon the Claimant shall be entitled to and may forthwith sign Judgment and issue Execution for the Recovery of Possession of such Portion of the Property, and for the Costs occasioned by the Defence relating to the same, and the Action may proceed as to the Residue.

Confession
by One of
several
Defendants
defending
separately
for Part.
15 & 16 Vict.
c. 76. s. 204.

Confession
by One of
several
Defendants
who defend
for same
Property.
15 & 16 Vict.
c. 76. s. 205.

345. In case One of several Defendants in Ejectment, who defends separately in respect of Property for which other Defendants also defend, shall be desirous of confessing the Claimant's Title, he may give a like Notice thereof; and thereupon the Claimant shall be entitled to and may sign Judgment against such Defendant for the Costs occasioned by his Defence, and may proceed in the Action against the other Defendants to Judgment and Execution.

Court or a
Judge may,
in Action of
Ejectment
on the Title,
direct tem-
porary Bars
to be waived.
19 & 20 Vict.
c. 102. s. 89.

346. It shall and may be lawful for the Court or a Judge, in any Action of Ejectment on the Title to be commenced after the passing of this Act, to make an Order directing temporary Bars to be waived and the real Title tried in such Ejectment, in any Case in which it shall be made to appear, to the Satisfaction of such Court or Judge, that a Decree or Decretal Order to the same Effect would be pronounced by the Court of Chancery upon a Bill filed for the Purpose of having temporary Bars waived, but upon such Terms or Conditions as to the said Court or Judge shall seem just.

Effect of
Judgment.

347. A Judgment in an Action of Ejectment under this Act shall have no greater Effect than a Judgment in Ejectment before the passing of an Act made in the Session of Parliament holden in the Thirteenth and Fourteenth Years of the Reign of Her present Majesty, intituled "An Act for the Regulation of Process and Practice in the Superior Courts of Common Law in Ireland."

Error and
Bail in Error
in Ejectment.
15 & 16 Vict.
c. 76. s. 208.

348. Error may be brought in like Manner as in other Actions upon any Judgment in Ejectment; after a special Verdict found by the Jury, or a Bill of Exceptions, or by Consent after a special Case stated, but, except in the Case of such Consent as aforesaid, Execution shall not be thereby stayed, unless the Plaintiff in Error shall, within Four clear Days after lodging the Memorandum alleging Error, or after the signing of the Judgement, whichever shall last happen, or before Execution executed, be bound unto the Claimant who shall have recovered Judgment in such Action of Ejectment in double the yearly Value of the Property and double the Costs recovered by the Judgment, with Condition that if the Judgment shall be affirmed by the Court of Error or the Proceedings in Error be discontinued by the Plaintiff therein, then the Plaintiff in Error shall pay such Costs, Damages, and Sum or Sums of Money as shall be awarded upon or after such Judgment affirmed or Discontinuance; and it shall be lawful for the Court wherein Execution ought to be granted upon such Affirmation or Discontinuance, upon the Application of the Claimant, to issue a Writ to inquire as well of

of the Mesne Profits as of the Damage by any Waste committed after the First Judgment in Ejectment, which Writ may be tested on the Day on which it shall issue, and be returnable immediately after the Execution thereof, and upon the Return thereof Judgment
 5 shall be given and Execution awarded for such Mesne Profits and Damages, and also for Costs of Suit.

349. In all Cases in which such Security shall have been given as provided by the Seventy-fifth Section of the "Landlord and Tenant Law Amendment Act (Ireland), 1860," if upon the Trial
 10 a Verdict shall pass for the Claimant, unless it shall appear to the Judge before whom the same shall have been had that the Finding of the Jury was contrary to the Evidence, or that the Damages given were excessive, such Judge shall not, except by Consent, make any Order to stay Judgment or Execution, except on con-
 15 dition that within Four Days from the Day of the Trial the Defendant shall actually find Security, by the Recognizance of himself and Two sufficient Sureties, in such reasonable Sum as the Judge shall direct, conditioned not to commit any Waste, or Act in the Nature of Waste, or other wilful Damage, and not to sell or
 20 carry off any Standing Crops which may happen to be thereupon, from the Day on which the Verdict shall have been given to the Day on which Execution shall finally be made upon the Judgment, or the same be set aside, as the Case may be: Provided always, that the Recognizance last above mentioned shall immediately stand
 25 discharged and be of no Effect in case Proceedings in Error shall be brought upon such Judgment, and the Plaintiff in Error shall become bound in the Manner herein-before provided.

On Trials after Bail found, Judge shall not stay the Execution except by Consent, or on Tenants finding Security.
 15 & 16 Vict.
 c. 76. s. 215.

Bail in Error to discharge such Security.

350. All Recognizances and Securities entered into as last aforesaid may and shall be taken respectively in such Manner and by
 30 and before such Persons as are provided and authorized in respect of Recognizances of Bail upon Actions and Suits depending in the Court in which any such Action of Ejectment shall have been commenced; but no Action or other Proceeding shall be commenced upon any such Recognizance or Security after the Expiration of Six
 35 Months from the Time when Possession of the Premises or any Part thereof shall actually have been delivered to the Landlord.

Recognizances to be taken as other Recognizances of Bail; Actions on them limited.
 15 & 16 Vict.
 c. 76. s. 216.

351. Nothing herein contained shall be construed to prejudice or affect any other Right of Action or Remedy which Landlords may possess in any of the Cases herein-before provided for, other-
 40 wise than as herein-before expressly enacted.

Saving of former Remedies.
 15 & 16 Vict.
 c. 76. s. 218.

[48.]

M

352. Where

In Ejectment by Mortgagee the Mortgagor's rendering the Principal, Interest, and Costs in Court shall be deemed a full Satisfaction, and the Court may compel the Mortgagee to re-convey.

15 & 16 Vict.
c. 76. s. 219.

352. Where an Action of Ejectment shall be brought by any Mortgagee, his Heirs, Executors, Administrators, or Assigns, for the Recovery of the Possession of any mortgaged Lands, Tenements, or Hereditaments, and no Suit shall be then depending in any of Her Majesty's Courts of Equity in Ireland, for or touching the fore-
closing or redeeming of such mortgaged Lands, Tenements, or Hereditaments, if the Person having Right to redeem such mortgaged Lands, Tenements, or Hereditaments, and who shall appear and become Defendant in such Action, shall at any Time, pending such Action, pay unto such Mortgagee, or, in case of his Refusal,
shall bring into Court where such Action shall be depending, all the Principal Moneys and Interest due on such Mortgage, and also all such Costs as have been expended in any Suit at Law or in Equity, upon such Mortgage (such Money for Principal, Interest, and Costs to be ascertained and computed by the Court where such
Action is or shall be depending, or by the proper Officer by such Court to be appointed for that Purpose), the Moneys so paid to such Mortgagee, or brought into such Court, shall be deemed and taken to be in full Satisfaction and Discharge of such Mortgage, and the Court shall and may discharge every such Mortgagor or Defendant
of and from the same accordingly; and shall and may, by Rule of the same Court, compel such Mortgagee, at the Costs and Charges of such Mortgagor, to assign, surrender, or re-convey such mortgaged Lands, Tenements, and Hereditaments, and such Estate and Interest as such Mortgagee has therein, and deliver up all Deeds, Evidences, and Writings in his Custody relating to the Title of such mortgaged Lands, Tenements, and Hereditaments, unto such Mortgagor, who shall have paid or brought such Moneys into the Court, his Heirs, Executors, or Administrators, or to such other Person or Persons as he or they shall for that Purpose nominate or appoint.

Not to extend to Cases where the Right of Redemption is controverted, or the Money due not adjusted.

or to prejudice any subsequent Mortgage.

15 & 16 Vict.
c. 76. s. 220.

353. Nothing herein contained shall extend to any Case where the Person against whom the Redemption is or shall be prayed shall (by Writing under his Hand, or the Hand of his Attorney, Agent, or Solicitor, to be delivered before the Money shall be brought into such Court of Law to the Attorney or Solicitor for the other Side),
insist, either that the Party praying a Redemption has not a Right to redeem, or that the Premises are chargeable with other or different Principal Sums than what appear on the Face of Mortgage, or shall be admitted on the other Side; or to any Case where the Right of Redemption to the mortgaged Lands and Premises in
question in any Cause or Suit shall be controverted or questioned by or between different Defendants in the same Cause or Suit; or shall be any Prejudice to any subsequent Mortgage or subsequent Incumbrance,

Incumbrance; anything herein contained to the contrary thereof in anywise notwithstanding.

354. The several Courts and the Judges thereof respectively shall and may exercise over the Proceedings the like Jurisdiction as heretofore exercised in the Action of Ejectment, so as to ensure a Trial of the Title and of actual Ouster, when necessary only, and for all other Purposes for which such Jurisdiction may at present be exercised; and the Provisions of all Statutes not hereby repealed, and not inconsistent with the Provisions of this Act, and which may be applicable to the Mode of proceeding under this Act, shall remain in force and be applied thereto.

355. In the Case of any Ejectment for a Forfeiture for Breach of a Covenant or Condition to insure against Loss or Damage by Fire, the Court or a Judge shall have Power, upon Motion, to give Relief in a summary Manner, but subject to Appeal as herein-after mentioned, in all Cases in which such Relief may now be obtained in the Court of Chancery under the Provisions of an Act passed in Session of Parliament held in the Twenty-second and Twenty-third Years of the present Reign, intituled "An Act to further amend the Law of Property, and to relieve Trustees," and upon such Terms as would be imposed in such Court.

356. Where such Relief shall be granted the Court or a Judge shall direct a Minute thereof to be made by Endorsement on the Lease or otherwise.

357. Any Order made by a Judge upon an Application for Relief under the Provisions of the last Two preceding Sections shall be subject to an Appeal to the Court, and may be discharged, varied, or set aside by the Court, upon such Terms as the Court shall think fit, on Application made thereto by any Party dissatisfied with such Order.

358. It shall be lawful for the Party against whom the Court makes any Rule or Order in respect of such Relief to appeal from such Rule or Order, and the Courts of Error shall be the Courts of Appeal for this Purpose, and every such Appeal shall be subject to the like Provisions as herein-before provided in relation to Appeals from Rules of the Court upon Motions for new Trials, or to enter a Verdict or Nonsuit by Sections 287., 288., 289., 291., and 292 of this Act.

359. The Proof of Title in any One or more several Claimants in Ejectment shall be sufficient to entitle a Verdict to be entered for

[48.]

M 2

such

Jurisdiction
of Courts
and Judges.
15 & 16 Vict.
c. 76. s. 221.

Relief
against For-
feiture for
not insuring.
23 & 24 Vict.
c. 126. s. 2.

22 & 23 Vict.
c. 35.

Minute
of Relief
granted.
23 & 24 Vict.
c. 126. s. 3.

Appeal to
the Court
from Order
of Judge.
23 & 24 Vict.
c. 126. s. 4.

Power to
appeal from
Order of
Court.
23 & 24 Vict.
c. 126. s. 5.

Proof of
Title.
16 & 17 Vict.
c. 113. s. 203.

such Claimant or Claimants, and it shall not be necessary to produce or prove upon any Trial of an Ejectment the Affidavit of Service of the Writ of Summons.

*Action for
Replevin of
Goods.*

Action for
Replevin to be
commenced
by Writ of
Summons.
13 & 14 Vict.
c. 18. s. 11.

And with respect to the Proceedings for Recovery of Goods and Chattels by way of Replevin :

5

360. Where any Party whose Goods or Chattels have been taken or distrained shall dispute the Validity of such Taking or Distress, and shall be desirous of proceeding for the Recovery of such Goods and Chattels by Replevin in any of the said Superior Courts, such Party may commence a personal Action for the Recovery of the Goods or Chattels so taken or distrained by a Writ of Summons, which Writ of Summons shall, in addition to any Particulars herein-before required in an ordinary Writ of Summons, state the Particulars of the Property taken or distrained, and the Place where such Taking, Seizure, or Distress shall have been made, and shall be served by delivering a Copy or Copies thereof to the Defendant or Defendants, or to any Agent or other Person acting for him or them in making such Seizure or Distress, or in keeping the Goods and Chattels so taken or distrained, in the Manner herein-before provided in respect of an ordinary Writ of Summons.

10

15

20

Plaintiff may
sue out also
a Writ of
Replevin.
16 & 17 Vict.
c. 113. s. 229.

361. When any such Action shall have been so commenced it shall be lawful for the Plaintiff therein to sue out of the Court in which such Action shall be instituted a Writ, to be called a Writ of Replevin, in the Form No. 26. in the Schedule (A.) to this Act annexed, directed to the Sheriff of the County in which such Goods and Chattels shall be under Seizure or Distress, requiring him to replevy the said Goods and Chattels, and the said Sheriff shall and he is hereby required, upon good Security (by the Bond, the Plaintiff, and Two responsible Persons as Sureties, conditioned as usual in such Cases) being given to him in double the Amount of the Value of the Property taken or distrained, to execute such Writ, and to return the said Writ, with a correct and proper Statement endorsed thereon of the Manner in which the same shall have been executed, or the Cause why the same has not been executed, to the Court out of which the same shall have issued within Eight Days, exclusive of any Days appointed to be observed and kept as Holidays, next after such Writ shall have been delivered to him : Provided always, that the Value of the Property so taken or distrained shall be ascertained by the said Sheriff in like Manner as the Value of Goods distrained is now ascertained by Law by the Sheriff in taking Security in Replevins, and that the said Bonds shall be assignable by the Sheriff under like Circumstances and in like

25

30

35

40

like

like Manner, and shall be available to the Assignee thereof, as by Law now or hereafter authorized in respect of Replevin Bonds.

- 362.** If the Plaintiff in any such Action for Replevin of a Distress made for Rent shall be non-prossed for not filing his Declaration, it shall be lawful for the Defendant to file a Suggestion in the Nature of a Declaration for Rent, praying the Court to inquire the Cause of the Distress; and thereupon, or in case Judgment be given for the Defendant on Demurrer, it shall be lawful for the Court to issue a Writ of Inquiry to the Sheriff of the County wherein the Distress was taken, or to the Master of the Court, to inquire touching the Amount of Rent in arrear at the Time of such Distress being taken, and the Value of the Goods or Chattels distrained, and such Inquiry shall be taken in the Manner hereinbefore provided upon Judgment by Default in case of unliquidated Demands; and upon the Return of such Inquisition the Defendant shall have Judgment and Execution to recover against the Plaintiff the Arrears of Rent, whether the Value of the Goods and Chattels distrained shall amount to so much or not, with his Costs of Suit in that Behalf incurred; and in case the said Plaintiff shall be non-suit after Issue joined, or if the Verdict shall be given against the Plaintiff, then the Jurors impaneled to try such Issue shall, at the Prayer of the Defendant, inquire the Amount of Rent due and the Value of the Goods and Chattels distrained, and the Defendant shall have Judgment and Execution for such Arrears, whether the Value of the said Goods and Chattels shall amount to so much or not, together with his Costs of Suit in that Behalf incurred: Provided always, that nothing herein contained shall in any Manner alter or affect the Liability of the Sureties in the Replevin Bond.

If Plaintiff in Replevin be non-prossed or nonsuited, Defendant entitled to Judgment and Execution for his Rent.

16 & 17 Vict. c. 113. s. 230.

19 & 20 Vict. c. 102. s. 101.

- 363.** The Plaintiff in Replevin may in answer to an Avowry pay Money into Court in satisfaction in like Manner and subject to the same Proceedings as to Costs and otherwise as upon a Payment into Court by a Defendant in other Actions, but such Payment shall not, nor shall the Acceptance thereof by the Defendant in Satisfaction, work a Forfeiture of the Replevin Bond.

Payment into Court in Replevin. 23 & 24 Vict. c. 126. ss. 23 and 24.

- And with respect to the Procedure in Real Actions, be it enacted as follows:

Real Actions.

- 364.** No Writ of Right of Dower or Writ of Dower Unde nihil habet, and no Plaint for Free Bench or Dower in the Nature of any such Writ, and no Quare impedit shall be brought after the Commencement of this Act in any Court whatsoever; but where any such Writ, Action, or Plaint would now lie, either in a Superior or in any other Court, an Action may be commenced by Writ of

Dower, Writ, of Right, of Dower and Quare impedit abolished as Real Actions, and to be commenced by

Writ of
Summons.
23 & 24 Vict.
c. 126. s. 26.

Summons returnable into the Court of Common Pleas in the same Manner and Form as the Writ of Summons in an ordinary Action; and upon such Writ shall be endorsed a Notice that the Plaintiff intends to declare in Dower, or for Free Bench, or in Quare impedit, as the Case may be.

5

Writ and all
Proceedings
thereupon,
to be same
as in ordi-
nary Actions.
23 & 24 Vict.
c. 126. s. 27.

365. The Service of the Writ, Appearance of the Defendant, Proceedings in default of Appearance, Pleadings, Judgment, Execution, and all other Proceedings and Costs upon such Writ, shall be subject to the same Rules and Practice, as nearly as may be, as the Proceedings in an ordinary Action commenced by Writ of Summons; and the Provisions of this Act shall apply to the Writ and Pleadings thereupon.

10

*Error on
Special
Case.*

And with respect to Error on a Judgment upon a Special Case, be it enacted as follows:

Error may
be brought
on a Special
Case.

17 & 18 Vict.
c. 125. s. 32.

366. Error may be brought upon a Judgment upon a Special Case in the same Manner as upon a Judgment upon a Special Verdict, unless the Parties agree to the contrary; and the Proceedings for bringing a Special Case before the Court of Error shall, as nearly as may be, be the same as in the Case of a Special Verdict; and the Court of Error shall either affirm the Judgment or give the same Judgments as ought to have been given in the Court in which it was originally decided, the said Court of Error being required to draw any Inferences of Fact from the Facts stated in such Special Case which the Court where it was originally decided ought to have drawn.

25

*Miscella-
neous
Provisions.*

And whereas it is expedient that Injunctions and Orders to stay Proceedings should be rendered more effectual, be it enacted as follows:

Injunctions
and Orders
to stay Pro-
ceedings to
have a spe-
cific Effect.
15 & 16 Vict.
c. 76. s. 226.

367. In case any Action, Suit, or Proceeding in any Court of Law or Equity shall be commenced, sued, or prosecuted in disobedience of and contrary to any Writ of Injunction, Rule, or Order of any of the Superior Courts of Law and Equity at Dublin, or of any Judge thereof in any other Court than that by or in which such Injunction may have been issued, or Rule or Order made, upon the Production to any such other Court or Judge thereof of such Writ of Injunction, Rule, or Order, the said other Court (in which such Action, Suit, or Proceeding may be commenced, prosecuted, or taken), or any Judge thereof, shall stay all further Proceedings contrary to any such Injunction, Rule, or Order, and thenceforth all further and subsequent Proceedings shall be utterly null and void to all Intents and Purposes: Provided always, that nothing herein contained shall be held to diminish, alter, abridge, or vary the

30

35

40

the Liability of any Person or Persons commencing, suing, or prosecuting any such Action, Suit, or Proceeding contrary to any Injunction, Rule, or Order of either of the Courts aforesaid, to any Attachment, Punishment, or other Proceeding to which any such Person or Persons are, may, or shall be liable in Cases of Contempt of either of the Courts aforesaid in regard to the commencing, suing, or prosecuting such Action, Suit, or Proceeding.

368. Any Person who shall upon any Examination upon Oath or Affirmation, or in any Affidavit in Proceedings under this Act, wilfully and corruptly give false Evidence, or wilfully and corruptly swear or affirm anything which shall be false, being convicted thereof, shall be liable to the Penalties of wilful and corrupt Perjury.

False Evidence.
17 & 18 Vict.
c. 125. s. 89.

369. The Superior Courts may appoint and hold Sittings either in banco or for the Trial of Issues in Fact by Judge or Jury at any Time or Times, whether in Term or Vacation, not being between the First of August and the Twentieth of October, and this Section shall apply to Business at the Crown Side of the Court of Queen's Bench.

Courts may appoint Sittings.
17 & 18 Vict.
c. 125. s. 95.

370. It shall be lawful for the Superior Courts of Common Law and every Judge thereof, and any Judge sitting at Nisi Prius, at all Times to amend all Defects and Errors in any Writ, Pleading, Record, or other Proceeding in Civil Causes, whether there is anything in Writing to amend by or not, and whether the Defect or Error be that of the Party applying to amend or not; and all such Amendments may be made in such Manner as shall be thereby directed, and with or without Costs, and upon such Terms as to the Court or Judge may seem fit; and all such Amendments as may be necessary for the Purpose of determining in the existing Suit the real Question in controversy between the Parties shall be so made, if duly applied for; and when such Amendment shall be made at Nisi Prius, or upon an Inquiry, the Order shall be endorsed upon the Record or Writ, and all Pleadings or other Records of the Court which it may be necessary to amend in conformity therewith shall be amended accordingly.

Amendments.
15 & 16 Vict.
c. 76. s. 222.

371. It shall be lawful for the Lord Lieutenant of Ireland from Time to Time, by an Order in Council, to direct that all or any Part of the Provisions of this Act, or of the several Orders to be made in pursuance thereof, shall apply to all or any Court or Courts of Record in Ireland; and within One Month after such Order shall have been made and published in the "Dublin Gazette," such Provisions and Orders respectively shall extend and apply in manner directed by such Order, and any such Order may be in like

The Lord Lieutenant may direct all or Part of this Act to extend to any Court of Record.
17 & 18 Vict.
c. 125. s. 105.

Manner from Time to Time altered and annulled; and in and by any such Order the Lord Lieutenant may direct by whom any Powers or Duties incident to the Provisions applied under this Act shall and may be exercised with respect to Matters in such Court or Courts, and may make any Orders or Regulations which may be deemed requisite for carrying into operation in such Court or Courts the Provisions so applied. 5

General
Rules may
be made by
the Judges.
16 & 17 Vict.
c. 113, s. 233.

372. It shall be lawful for the Judges of the Superior Courts of Common Law, or any Seven or more of them, whereof Two shall be Chief Judges, from Time to Time to make all 10 such General Rules and Orders for the effectual Execution of this Act, and the "Mercantile Law Amendment Act, 1856," and for making such Alterations in the Mode of Pleadings in the said Courts, and in the Mode of entering and transcribing Pleadings, Judgments, and other Proceedings in Actions at 15 Law, and in the Time and Manner of objecting to Errors in Pleadings and other Proceedings, and in the Mode of verifying Pleas, and in obtaining Final Judgment without Trial in certain Cases, and such Regulations as to the Payment of Costs, and for apportioning the Costs of Issues, and for fixing the Costs to be allowed for and in 20 respect of the Matters herein contained, or prescribed by such General Orders, and for enforcing the Performance thereof, and for settling a Scale of Expenses or Remuneration to be allowed to Witnesses, and for the Purpose of enforcing Uniformity of Practice and Pleading in the said Courts, and of Practice in the Offices 25 thereof, and of ensuring, as far as may be practicable, an equal Division of the Business amongst the said Courts as in their Judgment shall be necessary or proper, and for that Purpose to meet from Time to Time as Occasion may require; and if any Difference shall appear to exist in the Practice of the said Courts and the Offices 30 thereof, it shall be lawful for the Lord Chief Justice of the Court of Queen's Bench to summon a Meeting of the Judges, and thereupon the said Judges shall have full Power by a General Order or Orders to be made by any Seven or more of them, whereof Two shall be Chief Judges, to determine what the Practice in all the said Courts 35 and Offices thereof shall thenceforward be; and all such Rules and Orders as they shall so make shall be valid and effectual, and shall be observed in each of the said Courts and the Offices thereof, until varied or altered by the like Authority, anything in this Act to the contrary notwithstanding; and any Expenses which the Judges shall 40 certify (as now required with reference to incidental Expenses) to have been properly incurred in giving effect to the Provisions of this Act shall be charged and paid in like Manner and as Part of the incidental Expenses of the said Courts: Provided that nothing herein contained shall be construed to restrain the Authority or 45 limit

limit the Jurisdiction of the said Courts or the Judges thereof to make Rules or Orders, or otherwise to regulate and dispose of the Business therein.

373. Such new or altered Writs and Forms of Proceedings may be issued, entered, and taken as may by the Judges of the said Courts, or any Seven or more of them, of whom Two shall be the Chief Judges, be deemed necessary or expedient for giving Effect to the Provisions herein-before contained and the Provisions of the “Mercantile Law Amendment Act, 1856,” and in such Forms as the Judges of the said Courts respectively shall from Time to Time think fit to order; and such Writs and Proceedings shall be acted upon and enforced in such and the same Manner as Writs and Proceedings of the said Courts are now acted upon and enforced, or as near thereto as the Circumstances of the Case will admit; and any existing Writ or Proceeding the Form of which shall be in any Manner altered in pursuance of this Act shall nevertheless be of the same Force and Virtue as if no Alteration had been made therein, except so far as the Effect thereof may be varied by this Act.

New Forms
of Writs and
other Pro-
ceedings.
15 & 16 Vict.
c. 76. s. 224.

374. It shall and may be lawful to and for the Judges of each of the said Courts from Time to Time to make such Rules and Orders for the Government and Conduct of the Ministers and Officers of their respective Courts, in and relating to the Distribution and Performance of the Duties and Business to be done and performed in the Execution of this Act, as such Judges may think fit and reasonable: Provided always, that no additional Charge be thereby imposed on the Suitors.

Rules may
be made by
each Court
for Govern-
ment of its
Officers.
15 & 16 Vict.
c. 76. s. 225.

375. The Enactments contained in Sections 105, 180, 191 of this Act shall apply and extend to every Court of Civil Judicature in Ireland; and the Enactments contained in Sections 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, and 372 shall apply and extend to all Courts of Judicature, as well Criminal as others, and to all Persons having, by Law or Consent of Parties, Authority to hear, receive, and examine Evidence.

Enactments
of certain
Sections to
apply to all
Civil and
Criminal
Courts in
Ireland.

376. From and after the Commencement of this Act the several Acts and Parts of Acts set forth in the Schedule (C.) to this Act annexed, and to the Extent to which such Acts or Parts of Acts are by such Schedule expressed to be repealed, are hereby repealed, except as to anything done before the Commencement of this Act, and except so far as may be necessary for the Purpose of supporting and continuing any Proceeding heretofore taken upon any Action brought before the Commencement of this Act, and except as to

Repeal of
former Acts.

the Recovery or Application of any Penalty for any Offence which shall have been committed before the Commencement of this Act, and except so far as the said Acts or Parts of Acts, or any Part thereof, are or is incorporated in "The Probates and Letters of Administration Act (Ireland), 1857," and in a certain Act passed in the Session of Parliament holden in the Twentieth and Twenty-first Years of the Reign of Her present Majesty, intituled "An Act to alter the Constitution and amend the Procedure of the Court of Exchequer Chamber in Ireland," in relation to Proceedings in the Court of Exchequer Chamber other than those specially provided for by this Act. 5 10

This Act not to affect "The Common Law Procedure Amendment Act (Ireland), 1864," as to the County of Cork Juries.

377. Nothing in this Act contained shall be deemed or taken to repeal an Act passed in the Session of Parliament held in the Twenty-seventh and Twenty-eighth Years of Her present Majesty, intituled "The Common Law Procedure Amendment Act (Ireland), 1864," as to County of Cork Juries; and the Clauses in the said Act contained referring to "The Common Law Procedure Act (Ireland), 1853," shall be deemed to apply to this Act, mutatis mutandis. 15

Schedule of Law Fund Duties.

378. The several Duties set forth in Schedule (D.) to this Act annexed shall be the respective Law Fund Duties on the Proceedings in Actions in the said Superior Courts of Law in Ireland, and shall be in lieu and stead of the existing Duties in respect of the same or the like Subject Matter, and the like Penalties, Forfeitures, and Remedies for the Enforcement and Recovery of the same shall attach upon the said Duties as previously existed in respect of the Law Fund Duties heretofore in force. 20 25

And with respect to the Interpretation of Words in this Act :

Interpretation of Terms. 16 & 17 Vict. c. 113. s. 4.

379. In the Construction of this Act the Word "Court" shall be understood to mean any One of the Superior Courts of Common Law at Dublin in which any Action is brought; and the Word "Judge" shall be understood to mean a Judge or Baron of any of the said Courts; and the Word "Action" shall, except where inconsistent with the Context, be understood to mean any Personal Action brought by Writ of Summons in any of the said Courts; and the Word "Master" shall be understood to mean a Master of any of the said Courts; and no Part of the United Kingdom of Great Britain and Ireland, nor the Islands of Man, Guernsey, Jersey, Alderney, or Sark, nor any Islands adjacent to any of them, being Part of the Dominions of Her Majesty, shall be deemed to be "beyond the Seas" within the Meaning of this Act; and the Word "County" shall be taken to extend to and include, where necessary and 30 35 40

and consistent, any City, County of a City, or County of a Town or City, and County of any Place, as the Case may be; and the Word "Party" or "Person" shall extend to and include any Corporation or other Public Body; and the Word "Affidavit" shall include an
5 Affirmation or Declaration made by any Person who is empowered to give Evidence by Affirmation or Declaration in lieu of Oath; and no Provision requiring the Affidavit of or any Act to be done by the Attorney, or the Signature of Attorney or Counsel, or Service on the Attorney, shall apply to Cases where the Plaintiff or
10 Defendant shall sue or defend in person, but all such Acts shall be done by and Notices given to the Party so suing or defending in person; and wherever in this Act, in describing or referring to any Person or Party, Matter or Thing, any Word importing the Singular Number or Masculine Gender is used, the same shall be understood
15 to include and shall be applicable to several Persons and Parties as well as One Person or Party, and Females as well as Males, and Bodies Corporate as well as Individuals, and several Matters and Things as well as One Matter or Thing, unless it otherwise be provided, or there be something in the Subject or Context repugnant
20 to such Construction.

380. In citing this Act in any Instrument, Document, Pleading, Short Title. Proceeding, or Act of Parliament it shall be sufficient to use the Expression "The Common Law Procedure Act (Ireland), 1867."

SCHEDULES referred to in the foregoing Act.

SCHEDULE (A.)

No. 1.

Writ where the Defendant resides within the Jurisdiction.

Victoria, by the Grace of God, &c.

To *C.D.* of _____ in the County of _____ Merchant.

WE command you, that within Eight Days after the Service of this Writ on you, inclusive of the Day of such Service, you do cause an Appearance to be entered for you in Our Court of _____ in an Action at the Suit of *A.B.*; and take notice, that in default of your so doing the said *A.B.* may proceed therein to Judgment and Execution. Witness the Seal of Our Superior Courts of Common Law hereunto set at Dublin, the _____ Day of _____ in the Year of our Lord 18 ____.

Memorandum to be subscribed on the Writ.

N.B.—The Writ is to be served within [*Six*] Calendar Months from the 15
Date thereof, or, if renewed, from the Date of such Renewal, including
the Day of such Date, and not afterwards.

Endorsement to be made on the Writ before Service thereof.

This Writ was issued by *E.F.* of _____ Attorney for the said Plaintiff,
or this Writ was issued in Person by *A.B.*, who resides at _____ 20
[Mention the City, Town, or Parish, and also the Name of the Street and
Number of the House of the Plaintiff's Residence, if any such, and his
Description.]

Endorsement to be made on the Writ after Service thereof.

This Writ was served by *X.Y.* on *L.M.* [the Defendant, or One of the 25 Defendants] on Monday the Day of 18 .
(Signed) *X.Y.*

No. 2.

Writ where the Defendant, being a British Subject, resides out of the Jurisdiction.

Victoria by the Grace of God, &c.

5 To C.D. of in the County of

WE command you, that within

[Here insert a sufficient Number of Days within which the Defendant might appear, with reference to the Distance he may be at from Ireland]

Days after the Service of this Writ on you, inclusive of the Day of such Service, you do cause an Appearance to be entered for you in Our Court of
10 vice, in an Action at the Suit of A.B.; and take notice, that in default of your so doing the said A.B. may, by Leave of the Court or a Judge, proceed therein to Judgment and Execution. Witness, &c.

Memorandum to be subscribed on the Writ.

15 N.B.—This Writ is to be served within [Six] Calendar Months from the Date thereof, or, if renewed, from the Date of such Renewal, including the Day of such Date, and not afterwards.

Endorsement to be made on the Writ before the Service thereof.

This Writ is for Service out of the Jurisdiction of the Court, and was issued
20 by E.F. of Attorney for the said Plaintiff, or this Writ was issued in Person by A.B., who resides at

[Mention the City, Town, or Parish, and also the Name of the Street and Number of the House of the Plaintiff's Residence, if any such.]

The Endorsement required by the Ninth Section should be made on this Writ,
25 but should allow the Defendant the Time limited for Appearance to pay the Debt and Costs.

No. 3.

Writ where the Defendant, not being a British Subject, resides out of the Jurisdiction.

30 Victoria, by the Grace of God, &c.

To C.D. late of * in the County of

WE command you, that within

[Here insert a sufficient Number of Days within which the Defendant might appear, with reference to the Distance he may be at from Ireland]

40 Days after Notice of this Writ is served on you, inclusive of the Day of such Service, you do cause an Appearance to be entered for you in Our Court of in an Action at the Suit of A.B.; and take notice, that in default of your so doing the said A.B. may, by Leave of the Court or a Judge, proceed therein to Judgment and Execution. Witness, &c.

Memorandum to be subscribed on the Writ.

N.B.—Notice of this Writ is to be served within [Six] Calendar Months from the Date thereof, including the Day of such Date, and not afterwards.

Indorsements as in other Cases.

5

Notice of the foregoing Writ.

To G.H. late of [Mullingar in the County of Westmeath], or now residing at [Paris in France].

Take notice, That A.B. of in the County of Ireland, has commenced an Action at Law against you C.D. in Her Majesty's Court of 10
by a Writ returnable into that Court, dated the Day
of A.D. 18 ; and you are required within Days after the
Receipt of this Notice, inclusive of the Day of such Receipt, to defend the said
Action by causing an Appearance to be entered for you in the said Court to
the said Action; and in default of your so doing the said A.B. may, by Leave 15
of the Court or a Judge, proceed thereon to Judgment and Execution.

[Here state Amount of Claim as required by the Ninth Section, but allowing the Defendant the Time limited for Appearance to pay Debt and Costs.]

(Signed) A.B. of &c.
or
E.F. of &c.
Attorney for A.B.

20

No. 4.

Special Indorsement.

[After the Indorsement required by the Ninth Section of this Act, this special 25
Indorsement may be inserted.]

The following are the Particulars of Plaintiff's Claim:

	£	s.	d.	
1867.—June 20. Half Year's Rent to this Day of House				
and Premises in Grafton Street, Dublin	-	-	25 10 0	
Sept. 12. Ten Sacks of Flour, at 40s.	-	-	20 0 0	30
Dec. 1. Money received by Defendant	-	-	17 0 0	
			62 10 0	
Paid	-	-	15 0 0	
			47 10 0	35
Or				
To Butcher's Meat supplied between the 1st of January 1866 and the 1st of				
January 1867	-	-	£52	
Paid	-	-	20	
			£32	40

[If any Account has been delivered, it may be referred to, with its Date, or the Plaintiff may give such a Description of his Claim as in a particular Demand, so as to prevent the Necessity of an Application for further Particulars.]

Or,

5 £50 Principal and Interest due on a Bond dated the Day of
conditioned for the Payment of 100l.

Or,

£90 Principal and Interest due on a Covenant contained in a Deed dated
the Day of to say 100l. and Interest.

10

Or,

A Penalty of 50l. under the Statute 26 Vict. c. 29.

Or,

£85 on a Bill of Exchange for 100l., dated the 2d February 1864, accepted
or drawn, or indorsed by the Defendant.

15

Or,

£50 on a Guarantee, dated the 1st of January 1863, whereby the Defendant
guaranteed the due Payment by *E.F.* of Goods supplied or to be supplied to
him.

20

[To any of the above may be added, in Cases where Interest is payable, "the
" Plaintiff also claims Interest on l. of the above Sum from the Date of
the Writ until Judgment."]

25

N.B.—Take notice, that if a Defendant served with this Writ within the
Jurisdiction of the Court do not appear according to the Exigency
thereof, the Plaintiff will be at liberty to sign Final Judgment for any
Sum not exceeding the Sum above claimed (with Interest at the Rate
specified), and the Sum of l. for Costs, and issue Execution
at the Expiration of Eight Days from the last Day for Appearance.

No. 5.

30

*Judgment for Default of Appearance by Defendant residing within
the Jurisdiction when the Writ is specially indorsed.*

In the Queen's Bench:

On the Day of A.D. 1867.

[Day of signing the Judgment.]

35

Ireland, } *A.B.* in his own Person (or by *X.Y.* his Attorney) sued out a
to wit. } Writ of Summons against *C.D.*, indorsed according to "The
Common Law Procedure Act (Ireland), 1867," as follows:

[Here copy special Indorsement.]

40

And the said *C.D.* has not appeared: Therefore, it is considered that the
said *A.B.* recover against the said *C.D.* l. together with l. for
Costs of Suit.

No. 6.

The Issue on a Question or Questions of Fact without Pleadings.

In the Queen's Bench :

The Day of in the Year of our Lord 18
 County of Leitrim, } Whereas *A.B.* has sued *C.D.*, and affirms and denies 5
 to wit. }

[Here state the Question or Questions of Fact to be tried.]

And it has been ordered by the Hon. Mr. Justice , according to
 "The Common Law Procedure Act (Ireland), 1867," that the said Question
 shall be tried by a Jury : Therefore let the same be tried accordingly.

No. 7.

10

Bill of Exceptions.

In the Queen's Bench :

Monday, the 20th Day of July A.D. 1867.

A.B. } The Issues in Fact in the annexed Record of Nisi Prius
 Plaintiff. } having come to be tried by a Jury on this Day, the Plaintiff 15
C.D. } produced and examined as a Witness one *G.H.* to prove
 Defendant. } the Fact of [*&c. &c.*]; and the said *G.H.* deposed that
 [*&c., &c.*], which Evidence the Defendant objected to as not being legal
 Evidence of the Fact; and the Plaintiff insisting to the contrary, the Judge
 at Nisi Prius admitted the Evidence to be received accordingly; and therefore 20
 the Defendant excepts, and prays that his Exception shall be placed upon the
 Record, for the Examination of the Court above.

(Signed) *L.M.*, Counsel for Defendant.
 L.P., Judge.

No. 8.

25

Suggestion of Breaches.

In the Queen's Bench :

Monday, the 20th Day of June A.D. 1867.

A.B. } And now on this Day the said *A.B.* the Plaintiff comes
 Plaintiff. } and informs the Court, that after the Recovery of the said 30
C.D. } Judgment, and on the First Day of April 1865, another
 Defendant. } half-yearly Gale of the said Annuity, amounting to the 25
 Sum of 100*l.*, became due and payable to the Plaintiff, and that the Defendant
 has neglected and refused to pay the same, in breach and violation of the
 Conditions of the said Bond upon which the Plaintiff recovered such Judgment; 35
 and therefore the Plaintiff prays Execution of the said Judgment for the
 further Sum of 100*l.*

No. 9.

Form of Rule or Summons where a Judgment Creditor applies for Execution against a Judgment Debtor.

[Formal Parts.]

- 5 C.D. show Cause why A.B. [or as the Case may be] should not be at liberty to enter a Suggestion upon the Roll in an Action wherein the said A.B. was Plaintiff and the said C.D. was Defendant, and wherein the said A.B. obtained Judgment for l. against the said C.D. on the Day of ; that it manifestly appears to the Court that the said A.B. is entitled to have Execution of the said Judgment, and to issue Execution thereupon, and why the said C.D. should not pay to the said A.B. the Costs of this Application, to be taxed.

[NOTE.—The above Form may be modified so as to meet the Case of an Application by or against the Representative of a Party to the Judgment.]

15

No. 10.

Form of Suggestion that the Judgment Creditor is entitled to Execution against the Judgment Debtor.

- And now on the Day of it is suggested and manifestly appears to the Court, that the said A.B. [or C.D., as Executor of the last Will and Testament of the said A.B., deceased, or as the Case may be], is entitled to have Execution of the Judgment aforesaid against the said E.F. [or against G.H., as Executor of the last Will and Testament of the said E.F., or as the Case may be]: Therefore it is considered by the Court that the said A.B. [or C.D., as such Executor as aforesaid, or as the Case may be], ought to have Execution of the said Judgment against the said E.F. [or against G.H., as such Executor as aforesaid, or as the Case may be].

No. 11.

Form of Writ of Revivor.

- VICTORIA, by the Grace of God, &c., to E.F. of greeting.
- 30 WE command you that within Eight Days after the Service of this Writ upon you, inclusive of the Day of such Service, you appear in Our Court of to show Cause why A.B. [or C.D., as Executor of the last Will and Testament of the said A.B., deceased, or as the Case may be,] should not have Execution against you [if against a Representative, here insert, as Executor of the last Will and Testament of deceased, or as the Case may be] of a Judgment whereby the said A.B. [or as the Case may be] on the Day of in the said Court recovered against you [or as the Case may be] l. ; and take notice, that in default of your so doing the said A.B. [or as the Case may be] may proceed to Execution.
- 40 Witness, &c.

No. 12.

Satisfaction Piece, Affidavit, and Requisition to enter Satisfaction on Judgment.

A.B. Plaintiff. } I *A.B.* of _____ did obtain a Judgment in the
Court of _____ as of _____ Term 18 _____ Roll 5
C.D. Defendant. } No. _____ against *C.D.* _____ for the Sum
of _____ which said Judgment has been fully
satisfied and discharged [*or, in case of part Payment, of which the Sum of*
_____, Part of the Sum secured by the said Judgment, has been
paid]; and I hereby consent that Satisfaction [*or, in case of part Payment, a* 10
Memorandum of such part Payment shall] be entered on the Record of said
Judgment.

Dated this Day of 18 .

Signed in Presence of *E.F.*

A.B.

The above-named *E.F.* of _____ this Day maketh Oath and saith, 15
That he is the subscribing Witness to and saw the above Consent duly
executed by *A.B.* of _____, and saith that the Name *E.F.* subscribed
as Witness to the above Consent is Deponent's proper Name and Handwriting.

(Signed) *E.F.*

Sworn before me, this

20

Now I G.H. of a practising Attorney of this Honourable Court, do hereby, on behalf of the Defendant, require the proper Officer to enter Satisfaction [*or, in case of part Payment*, that a Memorandum of part Payment be entered] on the Record of said Judgment.

(Signed) G.H., Attorney. 25

To the Master of the Court of

No. 13.

Memorandum of Error in Law.

In the Queen's Bench :

The _____ Day of _____ in the Year of our Lord 18 . 30
[The Day of lodging Note of Error.]

A.B. and *C.D.*

The Plaintiff [*or Defendant*] says, That there is Error in Law in the Record and Proceedings in this Action; and the Defendant [*or Plaintiff*] says that there is no Error therein.

(Signed) *A.B.*, Plaintiff.

[or C.D., Défendant.]

[or E.F., Attorney for Plaintiff
or Defendant.]

No. 14.

Suggestion of Error and Denial of it.

The Day of in the Year of our Lord 18 .
 [*The Day of making the Entry on the Roll.*]

The Plaintiff [*or Defendant*] says, That there is Error in the above Record and Proceedings; and the Defendant [*or Plaintiff*] says that there is no Error 45 therein.

No. 15.

Memorandum alleging Error in Fact.

In the Queen's Bench :

The Day of in the Year of our Lord 18 .

5 [*The Day of lodging Note of Error*]*A.B.* and *C.D.* in Error.

The Plaintiff [*or Defendant*] says that there is Error in Fact in the Record and Proceedings in this Action, in the Particulars specified in the Affidavit hereunto annexed.

10 (Signed) *A.B.*, Plaintiff.
 [*or C.D.*, Defendant.]
 [*or E.F.*, Attorney for Plaintiff
 or Defendant.]

No. 16.

15 *Writ of Summons in Cases of Summary Procedure on Bills of Exchange.*

Victoria, by the Grace of God, &c.

To *C.D.*, of in the County of

WE warn you, that unless within Twelve Days after the Service of this Writ
 20 on you, inclusive of the Day of such Service, you obtain Leave from the Court
 of or One of the Judges thereof, to appear, and do within that
 Time appear, in Our Court of in an Action at the Suit of *A.B.*,
 the said *A.B.* may proceed to Judgment and Execution.

Witness, &c.

25 *Memorandum to be subscribed on the Writ.*

N.B.—This Writ is to be served within Six Calendar Months from the Date
 hereof, or if renewed from the Date of such Renewal, including the
 Day of such Date, and not afterwards.

Endorsement to be made on the Writ before Service thereof.

30 This Writ was issued by *E.F.* of Attorney for the Plaintiff,
 or, This Writ was issued in Person by *A.B.*, who resides at
 [*Mention the City, Town, or Parish, and also the Name of the Street, and
 Number of the House of the Plaintiff's Residence.*]

Endorsement.

35 The Plaintiff claims [Pounds, Principal and Interest], or
 Pounds, Balance of Principal and Interest, due to him as the Payee [*or Endorsee*]
 of a Bill of Exchange or Promissory Note, of which the following is a Copy :
 [*Here copy Bill of Exchange or Promissory Note, and all Endorsements upon it.*]
 And if the Amount thereof be paid to the Plaintiff or his Attorney within
 40 Days from the Service hereof, further Proceedings will be stayed.

Notice.

Take notice, That if the Defendant do not obtain Leave from the Court, or One of the Judges thereof, within Twelve Days after having been served with this Writ, inclusive of the Day of such Service, to appear thereto, and do not within such Time cause an Appearance to be entered for him in the Court 5 into which this Writ is returnable, the Plaintiff will be at liberty, at any Time after the Expiration of such Twelve Days, to sign final Judgment for any Sum not exceeding the Sum above claimed, and the Sum of Pounds for Costs, and issue Execution for the same.

Leave to appear may be obtained on an Application to the Court or a Judge, 10 supported by Affidavit, showing that there is a Defence to the Action on the Merits, or that it is reasonable that the Defendant should be allowed to appear in the Action.

Endorsement to be made on the Writ after Service thereof.

This Writ was served by X. Y. on L. M. (the Defendant or the Defen- 15
dants), on Monday the Day of 18 ,
By X. Y.

No. 17.

*Judgment on Nonappearance in Cases of Summary Procedure on 20
Bills of Exchange and Promissory Notes.*

In the Queen's Bench :
On the Day of in the Year of our Lord 18 .

[*Day of signing Judgment.*]

Ireland, } A. B. in his own Person [or by his Attorney] sued out a Writ 25
to wit. } against C. D., endorsed as follows :

[*Here copy Endorsement of Plaintiff's Claim.*]

And the said C. D. has not appeared.

Therefore it is considered that the said A. B. recover against the said C. D.
Pounds, together with Pounds for Costs of Suit. 30

No. 18.

*Ejectment.**Form of Writ.*

Victoria, &c., to X. Y. Z., and all Persons entitled to defend the Possession 35
of

[*Describe the Property with reasonable Certainty*]

in the Parish of in the County of , to the Possession
whereof A., B., and C., some or One of them, claim to be [or to have been
on and since the Day of A.D.]
entitled, and to eject all other Persons therefrom: These are to will and 40
command you, or such of you as deny the alleged Title, within Sixteen Days
after Service hereof, to appear in Our Court of to defend the

said Property, or such Part thereof as you may be advised ; in default whereof Judgment may be signed, and you turned out of Possession.

Witness, &c. (*as in personal Actions*).

[*Here endorse the Sum claimed as Damages for the Loss of Mesne Rates and Profits, or the Particulars of the Rent due, as the Case may be.*]

No. 19.

Judgment in Ejectment in case of Nonappearance.

In the Queen's Bench :

The Day of 18 .

10 [Date of Writ.]

County of Cork, } On the Day and Year above written, a Writ of our Lady
to wit. } the Queen issued forth, returnable into this Court, in
these Words ; that is to say,

Victoria, by the Grace of God

15 [Here copy the Writ].

And no Appearance has been entered or Defence made to the said Writ :
Therefore it is considered that the said

[Here insert the Names of the Persons in whom Title is alleged in the Writ]

do recover Possession of the Land in the said Writ mentioned, with the
20 Appurtenances.

No. 20.

Judgment in Ejectment where no Defence to Part.

In the Queen's Bench ;

The Day of A.D. 18 .

25 County of Galway, } On the Day and Year above written, a Writ of our
to wit. } Lady the Queen issued forth, returnable into this
Court, in these Words ; that is to say,

Victoria, by the Grace of God

[Here copy the Writ]

30 and C. D. has, on the Day of appeared by
his Attorney [*or in Person*] to the said Writ, and has defended for a Part of
the Land in the Writ mentioned ; that is to say,

[Here state the Part]

And no Appearance has been entered or Defence made to the said Writ,
35 except as to the said Part : Therefore it is considered that the said A. B. [*the Claimant*]
do recover Possession of the Land in the said Writ mentioned,
except the said Part, with the Appurtenances, and that he have Execution
thereof forthwith ; and as to the rest, let a Jury come, &c. [*as in the next Form,*
No. 21].

No. 21.

Issue in Ejectment where the Defence is to the whole.

In the Queen's Bench:

The Day of A.D. 18
County of Dublin, } On the Day and Year above written a Writ of our Lady 5
to wit. } the Queen issued forth, returnable into this Court, in
these Words; that is to say,
Victoria, by the Grace of God,

Victoria, by the Grace of God,

[Here copy the Writ]

And *C.D.* has on the _____ Day of _____ appeared by _____
his Attorney [*or in Person*] to the said Writ, and defended for the whole of 10
the Land therein mentioned: Therefore let a Jury come, &c., and let the Jury
ascertain whether the Plaintiff is entitled to any and what Damages for Loss
of Mesne Rates and Profits, and [*in case of Ejectment for Nonpayment of Rent*]
the Amount of Rent due to the Plaintiff. 11

No. 22.

Judgment in Ejectment on Verdict for the Plaintiff.

Afterwards, on the Day of A.D.
before and Justices of our Lady the Queen, assigned
to take the Assizes in and for the within County, come the Parties within 20
mentioned; and a Jury of the said County being sworn to try the Matters in
question between the said Parties, upon their Oath say, that *A.B.* (*the Claimant*)
within mentioned, on the Day of A.D.
was and still is entitled to the Possession of the Land within mentioned, as in
the Writ alleged: Therefore it is considered that the said *A.B.* (*the Claimant*) 25
do recover the Possession of the said Land with the Appurtenances, and the
Sum of *l.* for his Damages for the Loss of the Mesne Rates and
Profits of the said Lands [*and in Ejectment for Nonpayment of Rent*] the Sum
of *l.* for the Arrears of the Rent of the said Land.

No. 23.

Judgment in Ejectment for Costs after Discontinuance.

In the Queen's Bench:

The Day of 18

[*Date of Writ.*]

County of Kildare, } On the Day and Year above written a Writ of our Lady 35
to wit. } the Queen issued forth returnable into this Court, in
these Words; that is to say,

Victoria, by the Grace of God

[Here copy the Writ]

And *C.D.* has, on the Day of appeared by 40
his Attorney [*or in Person*] to the said Writ, and *A.B.* has discontinued the
Action: Therefore it is considered that the said *C.D.* be acquitted, and that he
recover against the said *A.B.* l. for his Cost of Defence.

No. 24.

Judgment in Ejectment where the Plaintiff has not proceeded to Trial when required so to do.

In the Queen's Bench:

5 The Day of 18.

[*Date of Writ.*]

County of Tyrone, } On the Day and Year above written a Writ of our Lady
to wit. } the Queen issued forth, returnable into this Court, in
these Words; that is to say,

10 Victoria, by the Grace of God

[*Here copy the Writ*]

And *C.D.* has on the Day of appeared by
his Attorney [*or in Person*] to the said Writ, and *A.B.* has failed to proceed to
Trial, although duly required so to do: Therefore it is considered that the said
15 *C.D.* be acquitted, and that he recover against the said *A.B.* *l.* for
his Costs of Defence.

No. 25.

Judgment in Ejectment by Confession.

In the Queen's Bench:

20 The Day of 18 .

[*Date of Writ.*]

County of Carlow, } On the Day and Year above written a Writ of our Lady
to wit. } the Queen issued forth, returnable into this Court, in
these Words; that is to say,

25 Victoria, by the Grace of God

[*Here copy the Writ*]

And *C.D.* has, on the Day of appeared by
his Attorney [*or in Person*] to the said Writ, and the said *C.D.* has confessed
the said Action [*or has confessed the said Action as to Part of the said Land,*
30 that is to say, *here state the Part*]: Therefore it is considered that the said *A.B.*
do recover Possession of the Land in the said Writ mentioned [*or of the said*
Part of the said Land, with the Appurtenances, and *l.* for Costs.

No. 26.

Writ of Replevin.

35 VICTORIA, by the Grace of God, &c.

To the Sheriff of greeting.

WE command you that without Delay you cause to be replevied to *A.B.* his
Goods and Chattels (and Cattle), to wit, which *C.D.* took
and unjustly detains, as it is said, and after what Manner you shall have executed
40 this Our Writ make appear to Us [*or to Our Justices or Barons, as the Case may*
be], at the Queen's Courts, Dublin, and have there this Our Writ.
Witness, &c.

Endorsements as in other Cases.

SCHEDULE (B.)

FORMS OF PLEADINGS.

STATEMENT OF CAUSES OF ACTION.

On Contracts.

Goods sold.	1. MONEY payable by the Defendant to the Plaintiff for [<i>These Words, "Money payable," &c. should precede Money Counts like 1 to 13, but need only be inserted in the first.</i>] Goods bargained and sold by the Plaintiff to the Defendant.	5
Work and Materials.	2. Work done and Materials provided by the Plaintiff for the Defendant at his Request.	10
Money lent.	3. Money lent by the Plaintiff to the Defendant.	
Money paid.	4. Money paid by the Plaintiff for the Defendant at his Request.	
Money received.	5. Money received by the Defendant for the Use of the Plaintiff.	
Account stated.	6. Money found to be due from the Defendant to the Plaintiff on Accounts stated between them.	15
For an Estate sold.	7. A Messuage and Land sold and conveyed by the Plaintiff to the Defendant.	
For Goodwill.	8. The Goodwill of a Business of the Plaintiff sold and given up by the Plaintiff to the Defendant.	
For the Use of a House and Land.	9. The Defendant's Use, by the Plaintiff's Permission, of Messuages and Lands of the Plaintiff.	20
For the Use of a Fishery.	10. The Defendant's Use, by the Plaintiff's Permission, of a Fishery of the Plaintiff.	
For Hire of Goods, &c.	11. The Hire of [<i>as the Case may be</i>] by the Plaintiff, let to Hire to the Defendant.	25
For Freight.	12. Freight for the Conveyance by the Plaintiff, for the Defendant, at his Request, of Goods in Ships.	
For Demurrage.	13. The Demurrage of a Ship of the Plaintiff kept on Demurrage by the Defendant.	
Payee against Maker of Note.	14. That the Defendant on the Day of A.D., by his Promissory Note, now overdue, promised to pay to the Plaintiff l. [<i>Two</i>] Months after Date, but did not pay the same.	30
Indorsee against Indorser of Note.	15. That one A. on, &c. [<i>Date</i>], by his Promissory Note, now overdue, promised to pay to the Defendant or Order l. [<i>Two</i>] Months after Date; and the Defendant indorsed the same to the Plaintiff; and the said Note was duly presented for Payment, and was dishonoured, whereof the Defendant had due Notice, but did not pay the same.	35
Drawee against Acceptor of Bill.	16. That the Plaintiff on, &c. [<i>Date</i>], by his Bill of Exchange, now overdue, directed to the Defendant, required the Defendant to pay to the Plaintiff l. [<i>Two</i>] Months after Date; and the Defendant accepted the said Bill, but did not pay the same.	40

17. That the Defendant, on, &c. [Date], by his Bill of Exchange, directed to A., required A. to pay to the Plaintiff *l.* [Two] Months after Date; and the said Bill was duly presented for Acceptance, and was dishonoured, of which the Defendant had due Notice, but did not pay the same.
18. That the Plaintiff and Defendant agreed to marry one another, and a reasonable Time for such Marriage has elapsed, and the Plaintiff has always been ready and willing to marry the Defendant, yet the Defendant has neglected and refused to marry the Plaintiff.
19. That the Plaintiff and Defendant agree to marry one another on a Day now elapsed, and the Plaintiff was ready and willing to marry the Defendant on that Day, yet the Defendant neglected and refused to marry the Plaintiff.
20. That the Defendant, by warranting a Horse to be then sound and quiet to ride, sold the said Horse to the Plaintiff, yet the said Horse was not then sound and quiet to ride.
21. That the Plaintiff and the Defendant agreed by Charterparty that the Plaintiff's Ship, called the *Ariel*, should with all convenient Speed sail to R., or so near thereto as she could safely get, and that the Defendant should there load her with a full Cargo of Tallow or other lawful Merchandise, which she should carry to H., and there deliver, on Payment of Freight *l.* per Ton, and that the Defendant should be allowed Ten Days for Loading, and Ten for Discharge, and Ten Days for Demurrage, if required, at *l.* per Day; and that the Plaintiff did all Things necessary on his Part to entitle him to have the agreed Cargo loaded on board the said Ship at R., and the Time for so doing has elapsed, yet the Defendant made default in loading the agreed Cargo.
22. That the Plaintiff let to the Defendant a House, No. , Merrion Square, North, Dublin, for Seven Years, to hold from the Day of A.D. at *l.* a Year, payable quarterly, of which Rent Quarters are due and unpaid.
23. That the Plaintiff by Deed let to the Defendant a House, No. , Henrietta Street, Dublin, to hold for Seven Years from the Day of A.D. , and the Defendant by the said Deed covenanted with the Plaintiff well and substantially to repair the said House during the said Term [according to the Covenant], yet the said House was during the said Term out of good and substantial Repair.

Payee against Drawer.

Breach of Promise of Marriage.

Warranty of a Horse.

For not loading pursuant to Charterparty.

Upon a Lease for Rent.

Upon a Covenant to repair.

Trespass Land.

Assault, Battery, and false Imprisonment.

Criminal Conversation.

Wrongful Conversion of Goods.

Wrongful Detention of Property, &c.

For Wrongs independent of Contract.

24. That the Defendant broke and entered certain Land of the Plaintiff, called the Big Field, and depastured the same with Cattle.
25. That the Defendant assaulted and beat the Plaintiff, gave him into Custody to a Policeman, and caused him to be imprisoned in a Police Office.
26. That the Defendant debauched and carnally knew the Plaintiff's Wife.
27. That the Defendant converted to his own Use or wrongfully deprived the Plaintiff of the Use and Possession of the Plaintiff's Goods; that is to say, Iron, Hops, Household Furniture [or, as the Case may be].
28. That the Defendant detained from the Plaintiff his Title Deeds of Land called Belmont in the County of Cork; that is to say [describe the Deeds].

Diverting
Water from
a Mill.

29. That the Plaintiff was possessed of a Mill, and by reason thereof was entitled to the Flow of a Stream for working the same, and the Defendant, by cutting the Bank of the said Stream, diverted the Water thereof away from the said Mill.

Infringement
of a Patent.

30. That the Plaintiff was the First and true Inventor of a certain new 5
Manufacture; that is to say, of "certain Improvements in the Manufacture of
"Sulphuric Acid," and thereupon Her Majesty Queen Victoria, by Letters
Patent under the Great Seal of England, granted the Plaintiff the sole Privilege
to make, use, exercise, and vend the said Invention within Ireland, for the
Term of Fourteen Years from the Day of A.D. 10
subject to a Condition that the Plaintiff should, within Six Calendar Months
next after the Date of the said Letters Patent, cause to be enrolled in the High
Court of Chancery an Instrument in Writing under his Hand and Seal, particu-
larly describing and ascertaining the Nature of his said Invention, and in what
Manner the same was to be and might be performed, and the Plaintiff did 15
within the Time prescribed fulfil the said Condition, and the Defendant during
the said Term did infringe the said Patent Right.

Defamation of
Character.

31. That the Defendant falsely and maliciously spoke and published of the Plaintiff the Words following; that is to say, "he is a Thief."

[If there be any special Damage, here state it with such reasonable Particularity 20
as to give Notice to the Defendant of the peculiar Injury complained of; for
instance,]

whereby the Plaintiff lost his Situation as Gamekeeper in the Employ of A.

32. That the Defendant falsely and maliciously printed and published of the Plaintiff, in a Newspaper called " , " the Words following; that is to 25
say, "he is a regular Prover under Bankruptcies;" the Defendant meaning
thereby that the Plaintiff had proved and was in the habit of proving fictitious
Debts against the Estates of Bankrupts, with the Knowledge that such Debts
were fictitious.

Commencement of Plea.

30

33. The Defendant by his Attorney [or in Person] says
[Here state the Substance of the Plea.]

34. And for a Second Plea the Defendant says
[Here state the Second Plea.]

Pleas in Actions on Contracts.

40

Denial of Debt.

35. That he never was indebted as alleged.
[This Plea is applicable to Declarations like those numbered 1 to 13.]

Denial of Con-
tract.

36. That he did not promise as alleged.
[This Plea is applicable to other Declarations on Simple Contracts, not on Bills
and Notes such as those numbered 18 to 21. It would be unobjectionable to use 45
"did not warrant," "did not agree," or any other appropriate Denial.]

Denial of Deed.

37. That the alleged Deed is not his Deed.

Statute of Li-
mitations.

38. That the alleged Cause of Action did not accrue within Six Years
[State the Period of Limitation applicable to the Case]
before this Suit. 50

39. That before Action he satisfied and discharged the Plaintiff's Claim by Payment.

40. That the Plaintiff at the Commencement of this Suit was, and still is, indebted to the Defendant in an Amount equal to the Plaintiff's Claim, for

5 [Here state the Cause of Set-off, as in a Declaration; see Forms ante] which Amount the Defendant is willing to set off against the Plaintiff's Claim.

41. That after the alleged Claim accrued, and before this Suit, the Plaintiff by Deed released the Defendant therefrom.

Pleas in Actions for Wrongs independent of Contract.

10 42. That he is not guilty.

Not guilty.

43. That he did what is complained of by the Plaintiff's Leave.

Leave and Licence.

44. That the Plaintiff first assaulted the Defendant, who thereupon necessarily committed the alleged Assault in his own Defence.

Self Defence.

45. That the Defendant, at the Time of the alleged Trespass, was of Land the Occupiers whereof for Twenty Years before this Suit enjoyed as of Right, and without Interruption, a Way on Foot and with Cattle from a public Highway over the said Land of the Plaintiff to the said Land of the Defendant, and from the said Land of the Defendant over the said Land of the Plaintiff to the said public Highway, at all Times of the Year, for the more convenient Occupation of the said Land of the Defendant, and that the alleged Trespass was a Use by the Defendant of the said Way.

Right of Way.

46. That the Defendant, at the Time of the alleged Trespass, was of Land the Occupiers whereof for Thirty Years before this Suit enjoyed as of Right, and without Interruption, Common of Pasture over the said Land of the Plaintiff for all their Cattle, levant and couchant, upon the said Land of the Defendant, at all Times of the Year, as to the said Land of the Defendant appertaining, and that the alleged Trespass was a Use by the Defendant of the said Right of Common.

Right of Common.

Replications.

30 47. The Plaintiff takes Issue upon the Defendant's 1st, 2d, &c. Pleas.

Joinder of Issue.

48. The Plaintiff as to Second Plea says,—

[Here state the Answer to the Plea as in the following Forms:]

49. That the alleged Release is not the Plaintiff's Deed.

Replication to Pleas containing new Matter To Plea of Release.

50. That the alleged Release was procured by the Fraud of the Defendant.

35 51. That the alleged Set-off did not accrue within Six Years before this Suit.

To Plea of Set-off.

52. That the Plaintiff was possessed of Land whereon the Defendant was trespassing and doing Damage, whereupon the Plaintiff requested the Defendant to leave the said Land, which the Defendant refused to do; and thereupon the Plaintiff gently laid his Hands on the Defendant in order to remove him, doing no more than was necessary for that Purpose, which is the alleged First Assault by the Plaintiff.

To Self Defence.

53. That the Occupiers of the said Land did not for Twenty Years before this Suit enjoy as of Right and without Interruption the alleged Way.

To Right of Way.

To the Pleas
of Right of Way
and Right of
Common.

54. The Plaintiff, as to the and Pleas, says, that he sues, not for the Trespasses therein admitted, but for Trespasses committed by Defendant in excess of the alleged Rights, and also in other Parts of the said Land, and on other Occasions, and for other Purposes than those referred to in 5 the said Pleas.

[If the Plaintiff replies, and new assigns, the new Assignment may be as follows:]

55. And the Plaintiff, as to the and Pleas, further
says, that he sues not only for the Trespasses in those Pleas admitted, but also 10
for, &c.

[If the Plaintiff replies, and new assigns to some of the Pleas, and new assigns only to the other, the Form may be as follows:]

56. And the Plaintiff, as to the and Pleas, further
says, that he sues not for the Trespasses in the Pleas

admitted, but for the Trespasses in the Pleas

admitted, and also for, &c.

20

Acts to be repealed, in so far as in the foregoing Act declared.

Date of Act.	Title of Act.	Extent of Repeal.
33 Geo. 3. c. 42. -	An Act for the Relief of Insolvent Debtors in regard to the Imprisonment of their Persons.	Sect. 28.
35 Geo. 3. c. 30. -	An Act for the Relief of Insolvent Debtors in regard to the Imprisonment of their Persons.	Sect. 31.
16 & 17 Vict. c. 113.	An Act to amend the Procedure in the Superior Courts of Common Law in Ireland.	The entire Act, except Sections 7, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 126, 191, 192, 232, 234, 235, 236, 237, 238.
19 & 20 Vict. c. 102.	An Act to further amend the Procedure in the Superior Courts of Common Law in Ireland.	The entire Act, except Sections 96, 97.
23 & 24 Vict. c. 154.	An Act to consolidate and amend the Laws of Landlord and Tenant in Ireland.	Sections 55, 56, 57, 58, 60, 67, 74, 77, so far as they relate to Proceedings in the Superior Courts of Common Law.
24 & 25 Vict. c. 43.	An Act to facilitate the Remedies on Bills of Exchange and Promissory Notes in Ireland, by the Prevention of frivolous or fictitious Defences to Actions thereto.	The entire Act.
25 Vict. c. 23.	An Act to amend the "Summary Procedure on Bills of Exchange (Ireland) Act, 1861."	The entire Act.

SCHEDULE (D.)

Law Fund Duties on Proceedings under the foregoing Act.

£ s. d.

	Affidavits	-	-	-	-	-	-	-
5	Attested Copy of any Pleading, Judgment, Affidavit, &c., &c., per Folio of Seventy-two Words	-	-	-	-	-	-	-
	Every Appearance entered in Ejectment	-	-	-	-	-	-	-
	Copy of any Rule	-	-	-	-	-	-	-
	Rule or Order of every Description	-	-	-	-	-	-	-
10	Writs of Summons, Declaration, Pleas, Demurrers, and all other Pleadings and Consents for Judgment	-	-	-	-	-	-	-
	Writs of Subpoena, Execution, and all other Writs whatsoever, save Writs of Summons	-	-	-	-	-	-	-
	Nisi Prius Record	-	-	-	-	-	-	-
15	Report of Master	-	-	-	-	-	-	-
	Requisition to enter Judgment, whether final or interlocutory, on Cognovit or otherwise, except a Final Judgment where Interlocutory Judgment has been already entered	-	-	-	-	-	-	-
	Summons to tax Costs	-	-	-	-	-	-	-
20	Requisition to tax Costs not exceeding 20l.	-	-	-	-	-	-	-
	Requisition to tax Costs not exceeding 50l.	-	-	-	-	-	-	-
	Requisition to tax Costs not exceeding 100l.	-	-	-	-	-	-	-
	Requisition to tax Costs exceeding 100l.	-	-	-	-	-	-	-
	General Exemption from the foregoing Duties in respect of all Proceedings on behalf of Paupers admitted to sue or defend in formâ Pauperis.							
25								

Common Law Courts (Ireland).

A

B I L L

To amend the Pleading, Practice, and
Procedure of the Courts of Common
Law in Ireland.

*(Prepared and brought in by
Mr. Attorney General for Ireland and
Mr. Solicitor General for Ireland.)*

*Ordered, by The House of Commons, to be Printed,
22 February 1867.*

[Bill 48.]

Under 17 oz.



A

B I L L

TO

Amend the Forty-ninth and Ninety-third Sections of the Commons Inclosure Act of the Eighth and Ninth Victoria, Chapter One hundred and eighteen.

BE it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

5 **1.** The recited Act and this Act may for all Purposes be cited Short Title.
as follows ; that is to say,

(a.) The recited Act as " The General Inclosure Act, 1845 :"

(b.) This Act as " The General Inclosure Act, 1867 :"

10 (c.) The recited Act and this Act as " The General Inclosure
Acts, 1845 and 1867."

2. Section Forty-nine of the recited Act is repealed, and there Amendment
of Section
Forty-nine of
recited Act.
is substituted for that Section as follows ; (that is to say,)

15 Provided also, That nothing in this Act shall extend to enable
the Valuer or the Commissioners or any Assistant Commissioner to
determine the Title of any Lands or Hereditament, or to determine
any Right between any Parties, contrary to the actual Possession
of any such Party, (except in Cases of Encroachment, as herein-after
[Bill 151.] mentioned,)

mentioned,) but in case the Valuer or the Commissioners or Assistant Commissioner shall be of opinion against the Rights of the Party in possession, they or he shall forbear to make any Determination thereupon until the Possession shall have been given up by such Party, or recovered from him in due Course of Law, or, where the Circumstances shall admit, such Valuer, or the Commissioners or Assistant Commissioner, may declare what Right is appendant or appurtenant to any Land or Hereditament, or otherwise declare by any sufficient Description the Rights of the Owner for the Time being of any Land or Hereditament, without declaring by Name who may be the actual Owner of such Land or Hereditament; and where in any Provisional Order, Determination, Award, or other Proceeding, in pursuance of this Act, or of any Act enacting that any Inclosure shall be proceeded with, any Person is named as Owner of or entitled to or in any way interested in any Land or Hereditament, the naming therein of that Person as such Owner or so entitled or interested shall not prejudicially affect the Title or Interest in or to the Land or Hereditament of the actual Owner thereof, or be any Evidence in favour of the Person named against the actual Owner, but in every respect the Provisional Order, Determination, Award, or other Proceeding in which any Person is named shall be read and have Effect as if there were contained therein, instead of the Name of the Person named therein, the Words "the actual Owner."

Amendment
of Section
Ninety-three
of recited
Act.

3. Section Ninety-three of the recited Act is repealed, and there is substituted for that Section as follows; (that is to say,) 25

Nothing in this Act, or in any Provisional Order, Report, Determination, Award, or other Proceeding in pursuance of this Act or of any Act enacting that any Inclosure shall be proceeded with, shall extend to revoke, make void, alter, or affect any Will, Settlement, Deed, or Assurance whatsoever, or any Use or Trust, or to prejudice any Person, whether an Allottee under the Award or not, having any Estate, Title, or Right, or any Claim of Dower, Jointure, Annuity, Portion, Debt, Charge, Rent, or Incumbrance, in, upon, to, or affecting any of the Lands or Hereditaments inclosed or excepted or reserved from or upon any Inclosure, or exchanged or partitioned, in pursuance of this Act or of any Act enacting that any Inclosure shall be proceeded with, but the Lands and Hereditaments allotted, excepted, reserved, exchanged, and partitioned respectively, upon every Inclosure, shall, immediately after the Allotment, Exception, Reservation, Exchange, or Partition, be and enure, and the several Persons to whom the same are allotted, excepted, reserved, exchanged, or partitioned shall thenceforth stand and be seised and possessed thereof respectively, to and for such

such and the same Persons, and such and the same Estates,
Interests, Uses, Trusts, Intents, and Purposes, and subject to such
and the same Powers, Limitations, Conditions, Covenants, Charges,
Incumbrances, and Provisions, of every Kind, as the several Lands,
5 Hereditaments, and Rights, or undivided Shares thereof, in respect
whereof the Allotments, Exchanges, and Partitions are made, or
which are excepted or reserved, would belong to or stand, or be
limited to and for, or be subject to, in case the Inclosure had not
been made, and this Act, and any Act enacting that the Inclosure
10 should be proceeded with, had not been passed, save such Leases
and Tenancies at Rackrents as become void by virtue of this Act,
or of any Act enacting that any Inclosure shall be proceeded with,
and any Joint Tenancy severed by Partition, and such Rights of
Common and other Rights as are intended to be extinguished by
15 the Inclosure, and subject to all Mortgages and Sales made by
Authority of this Act.

4. The recited Act, as amended by this Act, and this Act, shall
be read and have Effect as if they were One Act, and as if the
substituted Provisions contained in this Act had been originally
20 contained in the recited Act, and Part thereof, but so that if and
so far as any of these substituted Provisions be in any respect
repugnant to or inconsistent with any of the Provisions of the
recited Act the substituted Provisions shall prevail.

Recited Act
and this Act
to be read as
One Act.

Commons Inclosure Act Amendment.

A

B I L L

To amend the Forty-ninth and Ninety-third Sections of the Commons Inclosure Act of the Eighth and Ninth Victoria, Chapter One hundred and eighteen.

(Prepared and brought in by
Mr. Neate and Mr. Pollard Treguhart.)

Ordered, by The House of Commons, to be Printed,
14 May 1867.

[Bill 151.]

Under 1 oz.



A

B I L L

TO

Amend “The Companies Act, 1862.”

BE it enacted by the Queen’s most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

5 *Preliminary.*

1. This Act may be cited for all Purposes as “The Companies Short Title. Act, 1867.”

2. The Companies Act, 1862, is herein-after referred to as “the Principal Act ;” and the Principal Act and this Act are herein-after distinguished as and may be cited for all Purposes as “The Companies Acts, 1862 and 1867 ;” and this Act shall, so far as is consistent with the Tenor thereof, be construed as One with the Principal Act ; and the Expression “this Act” in the Principal Act, and any Expression referring to the Principal Act which occurs in any Act or other Document, shall be construed to mean the Principal Act as amended by this Act.

Act to be construed as One with 25 & 26 Vict. c. 89.

[Bill 221.]

A

3. This

Commence-
ment of Act.

3. This Act shall come into force on the First Day of September One thousand eight hundred and sixty-seven, which Date is herein-after referred to as the Commencement of this Act.

Unlimited Liability of Directors.

Company
may have
Directors
with
unlimited
Liability.

4. Where after the Commencement of this Act a Company is formed as a Limited Company under the Principal Act, the Liability of the Directors or Managers of such Company, or the Director or Manager who holds the Office of Managing Director, or other Office, may, if so provided by the Memorandum of Association, be unlimited.

Memo-
randum of
Association
of Company
to declare
Liability of
Directors.

5. The Memorandum of Association of every Limited Company which after the Commencement of this Act is formed under the Principal Act shall contain, in addition to the Particulars required by the Principal Act—

(1.) In the Case of a Company limited by Shares, a Declaration either that the Liability of the Directors or Managers is limited, or that it is unlimited, or that the Liability of the Director or Manager who holds the Office specified in the Memorandum is unlimited, and that of the other Directors or Managers limited, as the Case may be:

(2.) In the Case of a Company limited by Guarantee, a Declaration that the Directors or Managers, or the Director or Manager who holds the Office specified in the Memorandum, undertake or undertakes to contribute, in the Event and for the Purposes mentioned in the Ninth Section of the Principal Act, either the same Amount as other Members, or such Amount as may be required, whatever such Amount may be.

Liability of
Director, past
and present,
where Liabi-
lity is un-
limited.

6. The following Modifications shall be made in the Thirty-eighth Section of the Principal Act, with respect to the Contributions to be required in the Event of the winding-up of a Limited Company under the Principal Act, from any Director or Manager whose Liability is, in pursuance of this Act, unlimited:

(1.) Subject to the Provisions herein-after contained, any such Director or Manager, whether past or present, shall, in addition to his Liability (if any) to contribute as an ordinary Member, be liable to contribute as if he were at the Date of the Commencement of such Winding-up a Member of an unlimited Company:

(2.) No Contribution required from any past Director or Manager who has ceased to hold such Office for a Period of One Year or upwards prior to the Commencement of the Winding-up shall exceed the Amount (if any) which he is liable to contribute as an ordinary Member of the Company:

(3.) No

(3.) No Contribution required from any past Director or Manager in respect of any Debt or Liability of the Company contracted after the Time at which he ceased to hold such Office shall exceed the Amount (if any) which he is liable to contribute as an ordinary Member of the Company :

(4.) No Contribution required from any Director or Manager shall exceed the Amount (if any) which he is liable to contribute as an ordinary Member, unless the Court deems it necessary to require such Contribution in order to satisfy the Debts and Liabilities of the Company, and the Costs, Charges, and Expenses of the Winding-up; or if the Regulations of the Company make it necessary in order to adjust the Rights of Contributories among themselves.

7. In the event of the winding-up of any Limited Company, the Court, if it think fit, may make to any Director or Manager of such Company whose Liability is unlimited the same Allowance by way of Set-off as under the One hundred and first Section of the Principal Act it may make to a Contributory where the Company is not limited.

Director with unlimited Liability may have Set-off under 25 & 26 Vict. c. 89. s. 101.

8. In any Limited Company in which, in pursuance of this Act, the Liability of a Director or Manager is unlimited, the Directors or Managers of the Company (if any), and the Member who proposes any Person for Election or Appointment to such Office, shall add to such Proposal a Statement that the Liability of the Person holding such Office will be unlimited, and the Promoters, Directors, Managers, and Secretary (if any) of such Company, or One of them, shall, before such Person accepts such Office or acts therein, give him Notice in Writing that his Liability will be unlimited.

Notice to be given to Director on his Election that his Liability will be unlimited.

If any Director, Manager, or Proposer make default in adding such Statement, or if any Promoter, Director, Manager, or Secretary make default in giving such Notice, he shall be liable to a Penalty not exceeding One hundred Pounds, and shall also be liable for any Damage which the Person so elected or appointed may sustain from such Default, but the Liability of the Person elected or appointed shall not be affected by such Default.

9. Any Limited Company under the Principal Act, whether formed before or after the Commencement of this Act, may, by a special Resolution, if authorized so to do by its Regulations, as originally framed or as altered by special Resolution, from Time to Time modify the Conditions contained in its Memorandum of Association so far as to render unlimited the Liability of its Directors or Managers, or of the Director or Manager who holds the Office specified in such Resolution; and such special Resolution shall be of the same Validity

Existing Limited Company may, by special Resolution, make Liability of Directors unlimited.

as if it had been originally contained in the Memorandum of Association, and a Copy thereof shall be embodied in or annexed to every Copy of the Memorandum of Association which is issued after the passing of the Resolution, and any Default in this respect shall be deemed to be a Default in complying with the Provisions of the Fifty-fourth Section of the Principal Act, and shall be punished accordingly.

Reduction of Capital and Shares.

Company
may reduce
Capital and
Shares.

10. Any Company limited by Shares may, by special Resolution, so far modify the Conditions with respect to its Capital contained in its Memorandum of Association, if authorized so to do by its Regulations as originally framed or as altered by special Resolution, as to reduce its Capital, or by Division of its Shares or otherwise to divide its Capital into Shares of smaller Amount than is fixed by its Memorandum of Association, or to do both of the above Things; but no such Resolution for modifying the Capital of any Company shall come into operation until such Minute is registered by the Registrar of Joint Stock Companies, as is herein-after mentioned.

Company to
add "and
Reduced" to
its Name for
a limited
Period.

11. The Company shall, after the Date of the passing of any special Resolution for modifying its Capital, add to its Name, until the Date herein-after mentioned, the Words "and Reduced," as the last Words in its Name, and those Words shall, until such Date, be deemed to be Part of the Name of the Company within the Meaning of the Principal Act.

Notice of
Resolution,
and of Mode
of Objection,
to be published,
and Publication to be
Notice to all
Creditors.

12. The Company, in addition to forwarding a Copy of a special Resolution for modifying its Capital to the Registrar of Joint Stock Companies, as required by the Fifty-third Section of the Principal Act, shall also publish a Notice, in such Form as the Board of Trade may prescribe, stating clearly the Nature of the proposed Modification of its Capital, and the Class of Persons entitled under the Provisions of this Act to object to it, and the Mode in which and the Time within which such Objection is required under these Provisions to be expressed.

The Notice shall be published by such Means, whether by Advertisements, Circulars, or otherwise, and during such Time, as the Board of Trade may direct, and shall be delivered to the Registrar of Joint Stock Companies, and recorded by him; and at the Expiration of such Time after the said Publication as the Board of Trade may fix every Creditor of the Company who is entitled to object shall be deemed to have had Notice of the proposed Modification.

Creditors
may object
to Modification.

13. Every Person who at the Date of the Publication of the Notice of the proposed Modification of the Capital of a Company,
or

or of such One of the Publications as the Board of Trade may fix, is a Creditor of the Company, shall be entitled to object to the proposed Modification, and for this Purpose every Person shall be deemed to be a Creditor who at the Date aforesaid is entitled to any Debt or
 5 Claim which if that Date were the Commencement of the Winding-up of the Company would be admissible in Proof against the Company.

14. A Creditor may object to a proposed Modification of the Capital of a Company by serving on the Company a written Notice, stating the Fact of his Objection, and the Amount of his Debt or
 10 Claim. He shall also forward a like Notice to the Registrar of Joint Stock Companies.

Mode of and Time for Objection of Creditor.

The Notice of Objection shall be served on the Company within such Time as the Board of Trade may fix; and after such Time every Creditor who has not objected as provided by this Act shall
 15 for the Purposes of this Act be deemed to have assented to the proposed Modification.

15. A Resolution for modifying the Capital of a Company shall not come into operation unless every Objection thereto which has been made by a Creditor, as provided in this Act, is either withdrawn
 20 by such Creditor in Writing, or is avoided by the Company making such Deposit as herein-after mentioned.

Modification not to operate unless Objection withdrawn or avoided by a Deposit.

Notice in Writing of the Withdrawal of an Objection shall be forwarded to the Registrar, and recorded by him.

16. Where a Creditor has objected to the proposed Modification
 25 of the Capital of a Company, the Company may deposit in the Bank of England or some Branch thereof the Amount specified by such Creditor in his Notice of the Objection.

Deposit by Company in Bank of England of Amount claimed by Creditor, and Avoidance of Objection.

The Money deposited shall, if the Company is registered in England or Ireland, be paid into the Bank in the Name and with
 30 the Privity of the Accountant General of the Court of Chancery in England or of the Court of Exchequer in Ireland, as the Case may be, and shall, wherever the Company is registered, be paid into the Bank to the Credit of ex parte the Company in the Matter of this Act to the Account of the Creditor.

35 Upon such Deposit being made the Cashier of the Bank shall give to the Company a Receipt for the Money, specifying therein the Credit and Account to which the same has been paid.

The Money so deposited shall stand as Security to the Creditor for the Amount of his Debt or Claim, and such Debt or Claim shall
 40 be a First Charge on the Money so deposited, and upon such Deposit being made the Objection of the Creditor to the proposed Modification of the Capital of the Company shall be deemed to be avoided;

and the Registrar of Joint Stock Companies, on the Production to him of the Receipt of the Cashier for the Amount specified by any Creditor in his Notice of Objection, shall record the Production of such Receipt and the Avoidance of the Objection of such Creditor.

Company to
present
Minute of
Modification,
and prove
compliance
with Act.

17. After the Expiration of the Time limited for the Service of 5
Notice of Objections by Creditors to any Modification in the Capital
of a Company, or after the Withdrawal or Avoidance of every
Objection made, whichever may last happen, the Company may
deliver to the Registrar of Joint Stock Companies a Minute
showing with respect to the Capital of the Company, as altered by the 10
proposed Modification, the Amount of such Capital, the Number of
Shares in which it is to be divided, and the Amount of each Share.
The Minute shall be accompanied by such Vouchers and a Declaration
respecting such Particulars as the Board of Trade may require as
Proof of the Conditions of this Act having been complied with. The 15
Declaration shall be made by the Directors or Managers of the
Company, or by some Two of them, in manner provided by the Act
of the Sixth Year of the Reign of King William the Fourth, Chapter
Sixty-two.

Minute to be
registered,
and to form
Part of
Memoran-
dum of
Association.

18. The Registrar, upon the Production of such Declaration and 20
Vouchers, shall, if the Minute is in accordance with the special Reso-
lution, register such Minute, and such Minute, when so registered,
shall be deemed to be substituted for the corresponding Part of the
Memorandum of Association of the Company, and shall be of the
same Validity and subject to the same Alterations as if it had been 25
originally contained in the Memorandum of Association; and no
Member of the Company, whether past or present, shall be liable
in respect of any Share to any Call or Contribution exceeding in
Amount the Difference (if any) between the Amount which has been
paid on such Share and the Amount of the Share as fixed by the 30
Minute.

Notice of
Registration
of Minute
to be pub-
lished, and
Discon-
tinuance of
Words "and
Reduced."

19. Notice of the Registration of the Statement shall be published
in such Manner, whether by Advertisements, Circulars, or otherwise,
as the Board of Trade may direct. At the Expiration of such Time
after the Publication of the Notice as the Board of Trade may fix, 35
the Company may cease to add the Words "and Reduced" to their
Name.

Copy of
registered
Minute.

20. A Minute so registered shall be embodied in every Copy of
the Memorandum of Association issued after its Registration; and if
any Company makes default in complying with the Provisions of this 40
Section it shall incur a Penalty not exceeding *One Pound* for each
Copy in respect of which such Default is made, and every Director and
Manager

Manager of the Company who shall knowingly and wilfully authorize or permit such Default shall incur the like Penalty.

21. If the Company are of opinion that the Amount specified by a Creditor in his Notice of Objection is more than is or can become due to him, the Company may apply to the Court which has Jurisdiction to make an Order for winding-up such Company for an Order of the Court fixing the Amount which the Company must pay into the Bank as aforesaid in order to afford adequate Security to the said Creditor, and on such Application (which may be made in the same Manner as an Application for the Rectification of a Register of Members of a Company) the Court may make such Order with respect to the Amount to be deposited by the Company in the Bank as the Court thinks just.

If Claim of objecting Creditor is exorbitant Court may fix Amount to be deposited.

On the Amount specified in such Order being deposited by the Company in manner and to the Credit herein-before mentioned, and to the Account of the Creditor, the Objection of that Creditor to the Modification of the Capital of the Company shall be deemed to be avoided; and on the Production to the Registrar of Joint Stock Companies of such Order, and of the Receipt of the Cashier of the Bank for the Amount specified in such Order, the Registrar shall record the Production of such Order and Receipt, and the Avoidance of the Objection of the Creditor.

22. Where any Money has been deposited by any Company in the Bank in pursuance of this Act to the Account of any Creditor, the Court which has Jurisdiction to make an Order for winding-up such Company, on the Application by Petition of the Company who deposited the same, and the Creditor or either of them, may order the same to be invested in the Public Funds or Government Securities, and may, on a like Application, order the Money so deposited, or the Funds or Securities in which the same are invested, to be paid or transferred to or for the Benefit of the Company or the Creditor, and may make such Order as to Costs as the Court thinks fit.

Court may order Deposit to be invested and Investment or Money repaid.

23. The Powers of making Rules concerning winding-up conferred by the One hundred and seventieth, One hundred and seventy-first, One hundred and seventy-second, and One hundred and seventy-third Sections of the Principal Act shall extend to making Rules concerning Matters in which Jurisdiction is by this Act given to the Court which has the Power of making an Order to wind-up a Company, and until such Rules are made the Practice of the Court in Matters of the same Nature shall, so far as the same is applicable, be followed.

Power to make Rules.

Associations not for Profit.

Special Pro-
visions as to
Associations
formed for
Purposes not
of Gain.

24. Where any Association is about to be formed under the Principal Act as a Limited Company, if it proves to the Board of Trade that it is formed for the Purpose of promoting Commerce, Art, Science, Religion, Charity, or any other useful Object, and that it is the Intention of such Association to apply the Profits, if any, or other Income of the Association, in promoting its Objects, and to prohibit the Payment of any Dividend to the Members of the Association, the Board of Trade may by Licence, under the Hand of One of the Secretaries or Assistant Secretaries, direct such Association to be registered with Limited Liability, without the Addition of the Word Limited to its Name, and such Association may be registered accordingly, and upon Registration shall enjoy all the Privileges and be subject to the Obligations by this Act imposed on Limited Companies, with the Exceptions that none of the Provisions of this Act that require a Limited Company to use the Word Limited as any Part of its Name, or to publish its Name, or to send a List of its Members, Directors, or Managers to the Registrar, shall apply to an Association so registered.

The Licence by the Board of Trade may be granted upon such Conditions and subject to such Regulations as the Board think fit to impose, and such Conditions and Regulations shall be binding on the Association, and may, at the Option of the said Board, be inserted in the Memorandum and Articles of Association, or in both or One of such Documents.

Calls upon Shares.

Company
may have
some Shares
fully paid
and others
not.

25. Nothing contained in the Principal Act shall be deemed to prevent any Company under that Act, if authorized by its Regulations as originally framed or as altered by special Resolution, from doing any One or more of the following Things ; namely,—

- (1.) Making Arrangements on the Issue of Shares for a Difference between the Holders of such Shares in the Amount of Calls to be paid, and in the Time of Payment of such Calls :
- (2.) Accepting from some of the Members of the Company who assent thereto the whole or a Part of the Amount remaining unpaid on their Shares, although no Call has been made for such Amount :
- (3.) Paying Dividend in proportion to the Amount paid up on each Share in Cases where a larger Amount is paid up on some Shares than on others.

Transfer

Transfer of Shares.

26. A Company shall on the Application of the Transferor of any Share or Interest in the Company enter in its Register of Members the Name of the Transferee of such Share or Interest, in the same Manner and subject to the same Conditions as if the Application for such Entry were made by the Transferee.

Transfer
may be regis-
tered at
Request of
Transferor.

Share Warrants to Bearer.

27. In the Case of a Company limited by Shares the Company, if authorized so to do by its Regulations as originally framed or as altered by special Resolution, and subject to the Provisions of such Regulations, may, with respect to any Share which is fully paid up, or with respect to Stock, issue under their Common Seal a Warrant stating that the Bearer of the Warrant is entitled to the Share or Shares or Stock therein specified, and may provide, by Coupons or otherwise, for the Payment of the future Dividends on the Share or Shares or Stock included in such Warrant, herein-after referred to as a Share Warrant.

Warrant
of Limited
Shares fully
paid up may
be issued in
Name of
Bearer.

28. A Share Warrant shall entitle the Bearer to the Shares or Stock specified in it, and such Shares or Stock may be transferred by the Delivery of the Share Warrant.

Effect of
Share
Warrant.

29. The Bearer of a Share Warrant shall, subject to the Regulations of the Company, be entitled, on surrendering such Warrant for Cancellation, to have his Name entered as a Member in the Register of Members, but the Company shall not enter in its Register of Members the Name of any Bearer of a Share Warrant in respect of the Shares or Stock specified therein unless the Share Warrant is surrendered and cancelled.

Re-registra-
tion of
Bearer of a
Share
Warrant in
the Register.

30. The Bearer of a Share Warrant may, if the Regulations of the Company so provide, be deemed to be a Member of the Company within the Meaning of the Principal Act, either to the full Extent or for such Purposes as may be prescribed by the Regulations:

Regulations
of the Com-
pany may
make the
Bearer of a
Share
Warrant a
Member.

Provided that the Bearer of a Share Warrant shall not be qualified in respect of the Shares or Stock specified in such Warrant for being a Director of the Company.

31. On the Issue of a Share Warrant in respect of any Share or Stock the Company shall strike out of its Register of Members the Name of the Member then entered therein as holding such Share or Stock, and shall enter in the Register the following Particulars:

Entries in
Register
where Share
Warrant
issued.

(1.) The Fact of such Issue:

(2.) A Statement of the Shares or Stock included in it, distinguishing each Share by its Number:

(3.) The Date of the Issue:

[221]

B

And

And until the Warrant is surrendered the above Particulars shall be deemed to be the Particulars which the Company is required by the Twenty-fifth Section of the Principal Act to enter in its Register of Members; and on the Surrender of a Warrant the Date of such Surrender shall be entered as if it were the Date at which a Person 5 ceased to be a Member.

32. After the Issue by the Company of a Share Warrant the annual Summary required by the Twenty-sixth Section of the Principal Act shall contain the following Particulars,—the total Amount of Shares or Stock for which Share Warrants are out- 10 standing at the Date of the Summary, and the total Amount of Share Warrants which have been issued and surrendered respectively since the last Summary was made, and the Number of Shares or Amount of Stock comprised in each Warrant.

Stamps on
Share
Warrants.

33. The Sums specified in the Schedule hereto shall be charged 15 as Stamps on every Share Warrant

Penalties
on Persons
committing
Forgery.
26 & 27 Vict.
c. 28. s. 14.

34. Whosoever forges or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered, any Share Warrant or Coupon, or any Document purporting to be a Share Warrant or Coupon, issued in pursuance of this Act, or demands or endeavours 20 to obtain or receive any Share or Interest of or in any Company under the Principal Act, or to receive any Dividend or Money payable in respect thereof, by virtue of any such forged or altered Share Warrant, Coupon, or Document, purporting as aforesaid, knowing the same to be forged or altered, with Intent in any of the 25 Cases aforesaid to defraud, shall be guilty of Felony, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Five Years, or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary 30 Confinement.

Penalties
on Persons
falsely per-
sonating
Owner of
Shares.
26 & 27 Vict.
c. 28. s. 15.

35. Whosoever falsely and deceitfully personates any Owner of any Share or Interest of or in any Company, or of any Share Warrant or Coupon issued in pursuance of this Act, and thereby obtain or endeavours to obtain any such Share or Interest, or Share Warrant 35 or Coupon, or receives or endeavours to receive any Money due to any such Owner, as if such Offender were the true and lawful Owner, shall be guilty of Felony, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Five Years, or to be imprisoned for 40 any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement.

36. Whosoever,

36. Whosoever, without lawful Authority or Excuse, the Proof whereof shall be on the Party accused, engraves or makes upon any Plate, Wood, Stone, or other Material any Share Warrant or Coupon purporting to be a Share Warrant or Coupon issued or made by any particular Company under and in pursuance of this Act, or to be a blank Share Warrant or Coupon issued or made as aforesaid, or to be a Part of such a Share Warrant or Coupon, or uses any such Plate, Wood, Stone, or other Material for the making or printing any such Share Warrant or Coupon, or any such blank Share Warrant or Coupon, or any Part thereof respectively, or knowingly has in his Custody or Possession any such Plate, Wood, Stone, or other Material, shall be guilty of Felony, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for any Term not exceeding Fourteen Years and not less than Five Years, or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement.

Penalties
on Persons
engraving
Plates, &c.
26 & 27 Vict.
c. 28. s. 16.

Contracts.

37. Contracts on behalf of any Company under the Principal Act may be made as follows ; (that is to say,)

(1.) Any Contract which if made between private Persons would be by Law required to be in Writing, and if made according to English Law to be under Seal, may be made on behalf of the Company in Writing under the Common Seal of the Company, and such Contract may be in the same Manner varied or discharged :

(2.) Any Contract which if made between private Persons would be by Law required to be in Writing, and signed by the Parties to be charged therewith, may be made on behalf of the Company in Writing signed by any Person acting under the express or implied Authority of the Company, and such Contract may in the same Manner be varied or discharged :

(3.) Any Contract which if made between private Persons would by Law be valid although made by Parol only, and not reduced into Writing, may be made by Parol on behalf of the Company by any Person acting under the express or implied Authority of the Company, and such Contract may in the same Way be varied or discharged :

And all Contracts made according to the Provisions herein contained shall be effectual in Law, and shall be binding upon the Company and their Successors and all other Parties thereto, their Heirs, Executors, or Administrators, as the Case may be.

Contracts,
how made.
19 & 20 Vict.
c. 47. s. 41.
(Joint Stock
Companies
Act, 1856).

Meetings.

Company to
hold Meeting
within Four
Months after
Registration.

38. Every Company formed under the Principal Act after the Commencement of this Act shall hold a General Meeting within Four Months after its Memorandum of Association is registered; and if such Meeting is not held the Company shall be liable to a 5
Penalty not exceeding *Five Pounds* a Day for every Day after the Expiration of such Four Months until the Meeting is held; and every Director or Manager of the Company, and every Subscriber of the Memorandum of Association, who knowingly authorizes or permits such Default, shall be liable to the same Penalty. 10

Winding-up.

Contribu-
tory when
not qualified
to present
Winding-up
Petition.

39. No Contributory of a Company under the Principal Act shall be capable of presenting a Petition for winding-up such Company unless the Shares in respect of which he is a Contributory either have been held by him, and registered in his Name, for a Period of at least 15
Six Months during the Eighteen Months previously to the Commencement of the Winding-up, or have devolved upon him through the Death or Marriage of the Holder.

Winding-up
may be re-
ferred to
County
Court.

40. Where the High Court of Chancery in England makes an Order for winding-up a Company under the Principal Act, it may, if it thinks 20
fit, direct all subsequent Proceedings to be had in a County Court held under an Act of the Session of the Ninth and Tenth Years of the Reign of Her present Majesty, Chapter Ninety-five, and the Acts amending the same; and thereupon such County Court shall, for the Purpose of winding-up the Company, be deemed to be "the 25
Court" within the Meaning of the Principal Act, and shall have, for the Purposes of such Winding-up, all the Jurisdiction and Powers of the High Court of Chancery.

As to Trans-
fer of Suit
from one
County
Court to
another.
28 & 29 Vict.
c. 99. s. 11.

41. If during the Progress of a Winding-up it is made to appear to the Court of Chancery that the same could be more 30
conveniently prosecuted in any other County Court, it shall be competent for the Court of Chancery to transfer the same to such other County Court, and thereupon the Winding-up shall proceed in such other County Court.

Parties
aggrieved
may appeal.
28 & 29 Vict.
c. 99. s. 18.

42. If any Party in a Winding-up under this Act is 35
dissatisfied with the Determination or Direction of a Judge of a County Court on any Matter in such Winding-up, such Party may appeal from the same to the Vice-Chancellor named for that Purpose by the Lord Chancellor: Provided that such Party shall, within Thirty Days after such Determination or Direction, give 40
Notice

Notice of such Appeal to the other Party or his Attorney, and also deposit with the Registrar of the County Court the Sum of Ten Pounds as Security for the Costs of the Appeal; and the said Court of Appeal may make such final or other Decree or Order as it thinks fit, and may also make such Order with respect to the Costs of the said Appeal as such Court may think proper, and such Orders shall be final.

43. The County Court Judges appointed or to be appointed by the Lord Chancellor from Time to Time to frame Rules and Orders for regulating the Practice of the Courts, and Forms of Proceedings therein, under the Thirty-second Section of an Act passed in the Nineteenth and Twentieth Years of the Reign of Her present Majesty, Chapter One hundred and eight, shall frame the Rules and Orders for regulating the Practice of the County Courts under this Act, and Forms of Proceedings therein, and from Time to Time may amend such Rules, Orders, and Forms; and such Rules, Orders, and Forms, or amended Rules, Orders, and Forms, certified under the Hands of such Judges or of any Three or more of them, shall be submitted to the Lord Chancellor, who may allow or disallow or alter the same, and so from Time to Time; and the Rules, Orders, and Forms, or amended Rules, Orders, and Forms, so allowed or altered, shall from a Day to be named by the Lord Chancellor be in force in every County Court.

Powers to frame Rules and Orders under 19 & 20 Vict. c. 108. See 28 & 29 Vict. c. 99, s. 16.¹

44. The County Court Judges mentioned in the last Section shall be empowered to frame a Scale of Costs and Charges to be paid to Counsel and Attorneys with respect to all Proceedings in a winding up under this Act, and from Time to Time to amend such Scale; and such Scale or amended Scale, certified under the Hands of such Judges or any Three or more of them, shall be submitted to the Lord Chancellor, who from Time to Time may allow or disallow or alter the same; and the Scale or amended Scale so allowed or altered shall, from a Day to be named by the Lord Chancellor, be in force in every County Court.

Scale of Costs to be framed by the Judges. 28 & 29 Vict. c. 99. s. 17.

45. The Registrars and High Bailiffs of the County Courts shall be remunerated for the Duties to be performed by them under this Act, by receiving, for their own Use, such Fees as may be from Time to Time authorized to be taken by any Orders to be made by the Commissioners of the Treasury, with the Consent of the Lord Chancellor; and the Commissioners of the Treasury are hereby authorized and empowered, with such Consent as aforesaid, from Time to Time to make such Orders.

Remuneration of Registrars and High Bailiffs in Winding-up of Companies. 28 & 29 Vict. c. 99. s. 12.

Saving.

Saving of
25 & 26 Vict.
c. 89, s. 196.

46. Nothing in this Act contained shall exempt any Company from the Second or Third Provisions of the One hundred and ninety-sixth Section of the Principal Act restraining the Alteration of any Provision in any Act of Parliament or Charter. 5

The SCHEDULE referred to in the foregoing Act.

STAMPS ON SHARE WARRANTS.

Companies Act (1862)
Amendment.

A

BILL

To amend "The Companies Act, 1862."

(Prepared and brought in by
Mr. Dodson, Mr. Stephen Cave, and Mr. Hunt.)

Ordered, by The House of Commons, to be Printed,
2 July 1867.

[Bill 221.]

Under 1 oz.



A

B I L L

[AS AMENDED IN COMMITTEE]

TO

Amend "The Companies Act, 1862."

BE it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

5

Preliminary.

1. This Act may be cited for all Purposes as "The Companies Short Title Act, 1867."

2. The Companies Act, 1862, is herein-after referred to as "the Principal Act;" and the Principal Act and this Act are herein-after distinguished as and may be cited for all Purposes as "The Companies Acts, 1862 and 1867;" and this Act shall, so far as is consistent with the Tenor thereof, be construed as One with the Principal Act; and the Expression "this Act" in the Principal Act, and any Expression referring to the Principal Act which occurs in any Act or other Document, shall be construed to mean the Principal Act as amended by this Act.

Act to be
construed as
One with
25 & 26 Vict.
c. 89.

[Bill 304.]

A

3. This

Commence-
ment of Act.

3. This Act shall come into force on the First Day of September One thousand eight hundred and sixty-seven, which Date is herein-after referred to as the Commencement of this Act.

Unlimited Liability of Directors.

Company
may have
Directors
with
unlimited
Liability.

4. Where after the Commencement of this Act a Company is formed as a Limited Company under the Principal Act, the Liability of the Directors or Managers of such Company, or the Director or Manager who holds the Office of Managing Director, or other Office, may, if so provided by the Memorandum of Association, be unlimited.

Liability of
Director, past
and present,
where Liabi-
lity is un-
limited.

5. The following Modifications shall be made in the Thirty-eighth Section of the Principal Act, with respect to the Contributions to be required in the Event of the winding-up of a Limited Company under the Principal Act, from any Director or Manager whose Liability is, in pursuance of this Act, unlimited :

- (1.) Subject to the Provisions herein-after contained, any such Director or Manager, whether past or present, shall, in addition to his Liability (if any) to contribute as an ordinary Member, be liable to contribute as if he were at the Date of the Commencement of such Winding-up a Member of an unlimited Company : 15 20
- (2.) No Contribution required from any past Director or Manager who has ceased to hold such Office for a Period of One Year or upwards prior to the Commencement of the Winding-up shall exceed the Amount (if any) which he is liable to contribute as an ordinary Member of the Company : 25
- (3.) No Contribution required from any past Director or Manager in respect of any Debt or Liability of the Company contracted after the Time at which he ceased to hold such Office shall exceed the Amount (if any) which he is liable to contribute as an ordinary Member of the Company : 30
- (4.) Subject to the Provision contained in the Regulations of the Company no Contribution required from any Director or Manager shall exceed the Amount (if any) which he is liable to contribute as an ordinary Member, unless the Court deems it necessary to require such Contribution in order to satisfy the Debts and Liabilities of the Company, and the Costs, Charges, and Expenses of the Winding-up. 35

Director
with unli-
mited Liabi-
lity may have
Set-off under
25 & 26 Viet.
c. 89. s. 101.

6. In the event of the winding-up of any Limited Company, the Court, if it think fit, may make to any Director or Manager of such Company whose Liability is unlimited the same Allowance by way of Set-off as under the One hundred and first Section of the Principal Act it may make to a Contributory where the Company is not limited. 40

7. In

7. In any Limited Company in which, in pursuance of this Act, the Liability of a Director or Manager is unlimited, the Directors or Managers of the Company (if any), and the Member who proposes any Person for Election or Appointment to such Office, shall add to
 5 such Proposal a Statement that the Liability of the Person holding such Office will be unlimited, and the Promoters, Directors, Managers, and Secretary (if any) of such Company, or One of them, shall, before such Person accepts such Office or acts therein, give him Notice in Writing that his Liability will be unlimited.
- 10 If any Director, Manager, or Proposer make default in adding such Statement, or if any Promoter, Director, Manager, or Secretary make default in giving such Notice, he shall be liable to a Penalty not exceeding One hundred Pounds, and shall also be liable for any
 15 such Default, but the Liability of the Person elected or appointed shall not be affected by such Default.

Notice to be given to Director on his Election that his Liability will be unlimited.

8. Any Limited Company under the Principal Act, whether formed before or after the Commencement of this Act, may, by a special Resolution, if authorized so to do by its Regulations, as originally
 20 framed or as altered by special Resolution, from Time to Time modify the Conditions contained in its Memorandum of Association so far as to render unlimited the Liability of its Directors or Managers, or of the Director or Manager who holds the Office specified in such Resolution; and such special Resolution shall be of the same Validity
 25 as if it had been originally contained in the Memorandum of Association, and a Copy thereof shall be embodied in or annexed to every Copy of the Memorandum of Association which is issued after the passing of the Resolution, and any Default in this respect shall be deemed to be a Default in complying with the Provisions of the
 30 Fifty-fourth Section of the Principal Act, and shall be punished accordingly.

Existing Limited Company may, by special Resolution, make Liability of Directors unlimited.

Reduction of Capital and Shares.

9. Any Company limited by Shares may, by special Resolution, so far modify the Conditions contained in its Memorandum of
 35 Association, if authorized so to do by its Regulations as originally framed or as altered by special Resolution, as to reduce its Capital; but no such Resolution for reducing the Capital of any Company shall come into operation until an Order of the Court is registered by the Registrar of Joint Stock Companies, as is herein-after
 40 mentioned.

Company may reduce Capital.

10. The Company shall, after the Date of the passing of any special Resolution for reducing its Capital, add to its Name, until such Date as the Court may fix, the Words "and Reduced," as the

Company to add "and Reduced" to its Name for

a limited
Period.

last Words in its Name, and those Words shall, until such Date, be deemed to be Part of the Name of the Company within the Meaning of the Principal Act.

CLAUSE A.

Company to
apply to the
Court for an
Order con-
firming Re-
duction.

11. A Company which has passed a special Resolution for reducing its Capital, may apply to the Court by Petition for an Order confirming the Reduction, and on the Hearing of the Petition the Court, if satisfied that with respect to every Creditor of the Company who under the Provisions of this Act is entitled to object to the Reduction, either his Consent to the Reduction has been obtained, or his Debt or Claim has been discharged or has determined, or has been secured as herein-after provided, may make an Order confirming the Reduction on such Terms and subject to such Conditions as it deems fit.

CLAUSE B.

Definition of
the Court.

12. The Expression "the Court," shall in this Act mean the Court which has Jurisdiction to make an Order for winding up the petitioning Company, and the Eighty-first and Eighty-third Sections of the Principal Act shall be construed as if the Term "Winding-up" in those Sections included Proceedings under this Act, and the Court may in any Proceedings under this Act make such Order as to Costs as it deems fit.

CLAUSE C.

Creditors
may object
to Reduc-
tion, and List
of objecting
Creditors to
be settled
by the Court.

13. Where a Company proposes to reduce its Capital, every Creditor of the Company who at the Date fixed by the Court is entitled to any Debt or Claim which, if that Date were the Commencement of the winding-up of the Company, would be admissible in Proof against the Company, shall be entitled to object to the proposed Reduction, and to be entered in the List of Creditors who are so entitled to object.

The Court shall settle a List of such Creditors, and for that Purpose shall ascertain as far as possible without requiring an Application from any Creditor the Names of such Creditors and the Nature and Amount of their Debts or Claims, and may publish Notices fixing a certain Day or Days within which Creditors of the Company who are not entered on the List are to claim to be so entered or to be excluded from the Right of objecting to the proposed Reduction.

CLAUSE D.

Court may
dispense
with Consent
of Creditor
on Security
being given
for his Debt.

14. Where a Creditor whose Name is entered on the List of Creditors, and whose Debt or Claim is not discharged or determined, does not consent to the proposed Reduction, the Court may (if it think fit) dispense with such Consent on the Company securing the Payment of the Debt or Claim of such Creditor by setting apart and appropriating

appropriating in such Manner as the Court may direct, a Sum of such Amount as is herein-after mentioned ; (that is to say,)

(1.) If the full Amount of the Debt or Claim of the Creditor is admitted by the Company, or, though not admitted, is such as the Company are willing to set apart and appropriate, then the full Amount of the Debt or Claim shall be set apart and appropriated.

(2.) If the full Amount of the Debt or Claim of the Creditor is not admitted by the Company, and is not such as the Company are willing to set apart and appropriate, or if the Amount is contingent or not ascertained, then the Court may, if it think fit, inquire into and adjudicate upon the Validity of such Debt or Claim, and the Amount for which the Company may be liable in respect thereof, in the same Manner as if the Company were being wound up by the Court, and the Amount fixed by the Court on such Inquiry and Adjudication shall be set apart and appropriated.

15. The Registrar of Joint Stock Companies upon the Production to him of an Order of the Court confirming the Reduction of the Capital of a Company, and the Delivery to him of a Copy of the Order and of a Minute (approved by the Court), showing with respect to the Capital of the Company, as altered by the Order, the Amount of such Capital, the Number of Shares in which it is to be divided, and the Amount of each Share, shall register the Order and Minute, and on the Registration the special Resolution confirmed by the Order so registered shall take effect.

CLAUSE E.
Order and
Minute to be
registered.

Notice of such Registration shall be published in such Manner as the Court may direct.

The Registrar shall certify under his Hand the Registration of the Order and Minute, and his Certificate shall be conclusive Evidence that all the Requisitions of this Act with respect to the Reduction of Capital have been complied with, and that the Capital of the Company is such as is stated in the Minute.

16. The Minute when registered shall be deemed to be substituted for the corresponding Part of the Memorandum of Association of the Company, and shall be of the same Validity and subject to the same Alterations as if it had been originally contained in the Memorandum of Association; and, subject as in this Act mentioned, no Member of the Company, whether past or present, shall be liable in respect of any Share to any Call or Contribution exceeding in Amount the Difference (if any) between the Amount which has been paid on such Share and the Amount of the Share as fixed by the Minute.

Minute to
form Part of
Memoran-
dum of
Association.

CLAUSE F.

Saving of
Rights of
Creditors
who are
ignorant of
Proceedings.

17. If any Creditor who is entitled in respect of any Debt or Claim to object to the Reduction of the Capital of a Company under this Act is, in consequence of his Ignorance of the Proceedings taken with a View to such Reduction, not entered on the List of Creditors, and after such Reduction the Company is unable, within the Meaning of the Eightieth Section of the Principal Act, to pay to the Creditor the Amount of such Debt or Claim, every Person who was a Member of the Company at the Date of the Registration of the Order and Minute relating to the Reduction of the Capital of the Company, shall be liable to contribute for the Payment of such Debt or Claim an Amount not exceeding the Amount which he would have been liable to contribute if the Company had commenced to be wound up on the Day prior to such Registration, and on the Company being wound up, the Court on the Application of such Creditor, and on Proof that he was ignorant of the Proceedings taken with a View to the Reduction, may, if it think fit, settle a List of such Contributories accordingly, and make and enforce Calls and Orders on the Contributories settled on such List in the same Manner in all respects as if they were ordinary Contributories in a winding-up; but the Provisions of this Section shall not affect the Rights of the Contributories of the Company among themselves.

Copy of
registered
Minute.

18. A Minute when registered shall be embodied in every Copy of the Memorandum of Association issued after its Registration; and if any Company makes default in complying with the Provisions of this Section it shall incur a Penalty not exceeding One Pound for each Copy in respect of which such Default is made, and every Director and Manager of the Company who shall knowingly and wilfully authorize or permit such Default shall incur the like Penalty.

CLAUSE G.
Penalty on
Concealment
of Name of
Creditor.

19. If any Director, Manager, or Officer of the Company wilfully conceals the Name of any Creditor of the Company who is entitled to object to the proposed Reduction, or wilfully misrepresents the Nature or Amount of the Debt or Claim of any Creditor of the Company, or if any Director or Manager of the Company aids or abets in or is privy to any such Concealment or Misrepresentation as aforesaid, every such Director, Manager, or Officer shall be guilty of a Misdemeanor.

Power to
make Rules.

20. The Powers of making Rules concerning winding-up conferred by the One hundred and seventieth, One hundred and seventy-first, One hundred and seventy-second, and One hundred and seventy-third Sections of the Principal Act shall respectively extend to making Rules concerning Matters in which Jurisdiction is by this Act given to the

the Court which has the Power of making an Order to wind-up a Company, and until such Rules are made the Practice of the Court in Matters of the same Nature shall, so far as the same is applicable, be followed.

5

Subdivision of Shares.

CLAUSE H.

Shares may be divided into Shares of smaller Amount.

21. Any Company limited by Shares may by special Resolution so far modify the Conditions contained in its Memorandum of Association, if authorized so to do by its Regulations as originally framed or as altered by special Resolution, as by Sub-division of its existing Shares or any of them, to divide its Capital, or any Part thereof, into Shares of smaller Amount than is fixed by its Memorandum of Association.

10
15 Provided, that in the Sub-division of the existing Shares the Proportion between the Amount which is paid and the Amount (if any) which is unpaid on each Share of reduced Amount shall be the same as it was in the Case of the existing Share or Shares from which the Share of reduced Amount is derived.

CLAUSE I.

Special Resolution to be embodied in Memorandum of Association.

22. The Statement of the Number and Amount of the Shares into which the Capital of the Company is divided contained in every Copy of the Memorandum of Association issued after the passing of any such special Resolution, shall be in accordance with such Resolution; and any Company which makes default in complying with the Provisions of this Section shall incur a Penalty not exceeding One Pound for each Copy in respect of which such Default is made; and every Director and Manager of the Company who knowingly or wilfully authorizes or permits such Default shall incur the like Penalty.

Associations not for Profit.

23. Where any Association is about to be formed under the Principal Act as a Limited Company, if it proves to the Board of Trade that it is formed for the Purpose of promoting Commerce, Art, Science, Religion, Charity, or any other useful Object, and that it is the Intention of such Association to apply the Profits, if any, or other Income of the Association, in promoting its Objects, and to prohibit the Payment of any Dividend to the Members of the Association, the Board of Trade may by Licence, under the Hand of One of the Secretaries or Assistant Secretaries, direct such Association to be registered with Limited Liability, without the Addition of the Word Limited to its Name, and such Association may be registered accordingly, and upon Registration shall enjoy all the Privileges and

Special Provisions as to Associations formed for Purposes not of Gain.

be subject to the Obligations by this Act imposed on Limited Companies, with the Exceptions that none of the Provisions of this Act that require a Limited Company to use the Word Limited as any Part of its Name, or to publish its Name, or to send a List of its Members, Directors, or Managers to the Registrar, shall apply to an Association so registered. 5

The Licence by the Board of Trade may be granted upon such Conditions and subject to such Regulations as the Board think fit to impose, and such Conditions and Regulations shall be binding on the Association, and may, at the Option of the said Board, be inserted in the Memorandum and Articles of Association, or in both or One of such Documents. 10

Calls upon Shares.

Company
may have
some Shares
fully paid
and others
not.

24. Nothing contained in the Principal Act shall be deemed to prevent any Company under that Act, if authorized by its Regulations as originally framed or as altered by special Resolution, from doing any One or more of the following Things; namely,— 15

- (1.) Making Arrangements on the Issue of Shares for a Difference between the Holders of such Shares in the Amount of Calls to be paid, and in the Time of Payment of such Calls : 20
- (2.) Accepting from some of the Members of the Company who assent thereto the whole or a Part of the Amount remaining unpaid on their Shares, although no Call has been made for such Amount :
- (3.) Paying Dividend in proportion to the Amount paid up on each Share in Cases where a larger Amount is paid up on some Shares than on others. 25

Transfer of Shares.

Transfer
may be regis-
tered at
Request of
Transferor.

25. A Company shall on the Application of the Transferor of any Share or Interest in the Company enter in its Register of Members the Name of the Transferee of such Share or Interest, in the same Manner and subject to the same Conditions as if the Application for such Entry were made by the Transferee. 30

Share Warrants to Bearer.

Warrant
of Limited
Shares fully
paid up may
be issued in
Name of
Bearer.

26. In the Case of a Company limited by Shares the Company, if authorized so to do by its Regulations as originally framed or as altered by special Resolution, and subject to the Provisions of such Regulations, may, with respect to any Share which is fully paid up, or with respect to Stock, issue under their Common Seal a Warrant stating that the Bearer of the Warrant is entitled to the Share or 40
Shares

Shares or Stock therein specified, and may provide, by Coupons or otherwise, for the Payment of the future Dividends on the Share or Shares or Stock included in such Warrant, herein-after referred to as a Share Warrant.

- 5 **27.** A Share Warrant shall entitle the Bearer of such Warrant to the Shares or Stock specified in it, and such Shares or Stock may be transferred by the Delivery of the Share Warrant. Effect of
Share
Warrant.

- 10 **28.** The Bearer of a Share Warrant shall, subject to the Regulations of the Company, be entitled, on surrendering such Warrant for Cancellation, to have his Name entered as a Member in the Register of Members, and the Company shall be responsible for any Loss incurred by any Person by reason of the Company entering in its Register of Members the Name of any Bearer of a Share Warrant in respect of the Shares or Stock specified therein without the
15 Share Warrant being surrendered and cancelled. Re-registra-
tion of
Bearer of a
Share
Warrant in
the Register.

- 29.** The Bearer of a Share Warrant may, if the Regulations of the Company so provide, be deemed to be a Member of the Company within the Meaning of the Principal Act, either to the full Extent or for such Purposes as may be prescribed by the Regulations : Regulations
of the Com-
pany may
make the
Bearer of a
Share
Warrant a
Member.
- 20 Provided that the Bearer of a Share Warrant shall not be qualified in respect of the Shares or Stock specified in such Warrant for being a Director or Manager of the Company in Cases where such a Qualification is prescribed by the Regulations of the Company.

- 30.** On the Issue of a Share Warrant in respect of any Share or
25 Stock the Company shall strike out of its Register of Members the Name of the Member then entered therein as holding such Share or Stock as if he had ceased to be a Member, and shall enter in the Register the following Particulars : Entries in
Register
where Share
Warrant
issued.

- (1.) The Fact of the Issue of the Warrant :
30 (2.) A Statement of the Shares or Stock included in the Warrant, distinguishing each Share by its Number :
 (3.) The Date of the Issue of the Warrant :

- And until the Warrant is surrendered the above Particulars shall be deemed to be the Particulars which are required by the Twenty-fifth
35 Section of the Principal Act to be entered in the Register of Members of a Company ; and on the Surrender of a Warrant the Date of such Surrender shall be entered as if it were the Date at which a Person ceased to be a Member.

- 31.** After the Issue by the Company of a Share Warrant the
40 annual Summary required by the Twenty-sixth Section of the
[304.] Particulars
to be con-
tained in
B Principal

annual
Summary.

Principal Act shall contain the following Particulars,—the total Amount of Shares or Stock for which Share Warrants are outstanding at the Date of the Summary, and the total Amount of Share Warrants which have been issued and surrendered respectively since the last Summary was made, and the Number of Shares or 5 Amount of Stock comprised in each Warrant.

Stamps on
Share
Warrants.

32. There shall be charged on every Share Warrant a Stamp Duty of an Amount equal to Three Times the Amount of the ad valorem Stamp Duty which would be chargeable on a Deed transferring the Share or Shares or Stock specified in the Warrant. 10

Penalties
on Persons
committing
Forgery.
26 & 27 Vict.
c. 28. s. 14.

33. Whosoever forges or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered, any Share Warrant or Coupon, or any Document purporting to be a Share Warrant or Coupon, issued in pursuance of this Act, or demands or endeavours to obtain or receive any Share or Interest of or in any Company 15 under the Principal Act, or to receive any Dividend or Money payable in respect thereof, by virtue of any such forged or altered Share Warrant, Coupon, or Document, purporting as aforesaid, knowing the same to be forged or altered, with Intent in any of the Cases aforesaid to defraud, shall be guilty of Felony, and being 20 convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Five Years, or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement. 25

Penalties
on Persons
falsely per-
sonating
Owner of
Shares.
26 & 27 Vict.
c. 28. s. 15.

34. Whosoever falsely and deceitfully personates any Owner of any Share or Interest of or in any Company, or of any Share Warrant or Coupon issued in pursuance of this Act, and thereby obtain or endeavours to obtain any such Share or Interest, or Share Warrant or Coupon, or receives or endeavours to receive any Money due to 30 any such Owner, as if such Offender were the true and lawful Owner, shall be guilty of Felony, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Five Years, or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, 35 and with or without Solitary Confinement.

Penalties
on Persons
engraving
Plates, &c.
26 & 27 Vict.
c. 28. s. 16.

35. Whosoever, without lawful Authority or Excuse, the Proof whereof shall be on the Party accused, engraves or makes upon any Plate, Wood, Stone, or other Material any Share Warrant or Coupon purporting to be a Share Warrant or Coupon issued or made by any 40 particular Company under and in pursuance of this Act, or to be a blank

blank Share Warrant or Coupon issued or made as aforesaid, or to be a Part of such a Share Warrant or Coupon, or uses any such Plate, Wood, Stone, or other Material for the making or printing any such Share Warrant or Coupon, or any such blank Share Warrant or
 5 Coupon, or any Part thereof respectively, or knowingly has in his Custody or Possession any such Plate, Wood, Stone, or other Material, shall be guilty of Felony, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal
 10 Servitude for any Term not exceeding Fourteen Years and not less than Five Years, or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement.

Contracts.

36. Contracts on behalf of any Company under the Principal Act
 15 may be made as follows ; (that is to say,) Contracts,
how made.
19 & 20 Vict.
c. 47. s. 41.
(Joint Stock
Companies
Act, 1856).

(1.) Any Contract which if made between private Persons would be by Law required to be in Writing, and if made according to English Law to be under Seal, may be made on behalf of the Company in Writing under the Common Seal of the
 20 Company, and such Contract may be in the same Manner varied or discharged :

(2.) Any Contract which if made between private Persons would be by Law required to be in Writing, and signed by the Parties to be charged therewith, may be made on behalf of the Company in Writing signed by any Person acting
 25 under the express or implied Authority of the Company, and such Contract may in the same Manner be varied or discharged :

(3.) Any Contract which if made between private Persons would by Law be valid although made by Parol only, and not reduced into Writing, may be made by Parol on behalf of the Company by any Person acting under the express or implied Authority of the Company, and such Contract may in the same Way be varied or discharged :

35 And all Contracts made according to the Provisions herein contained shall be effectual in Law, and shall be binding upon the Company and their Successors and all other Parties thereto, their Heirs, Executors, or Administrators, as the Case may be.

Meetings.

40 **37.** Every Company formed under the Principal Act after the Commencement of this Act shall hold a General Meeting within Four Months after its Memorandum of Association is registered ; Company to
hold Meeting
within Four
Months after
Registration.
 [304.] C and

and if such Meeting is not held the Company shall be liable to a Penalty not exceeding Five Pounds a Day for every Day after the Expiration of such Four Months until the Meeting is held; and every Director or Manager of the Company, and every Subscriber of the Memorandum of Association, who knowingly authorizes or permits such Default, shall be liable to the same Penalty.

Winding-up.

Contributory when not qualified to present Winding-up Petition.

38. No Contributory of a Company under the Principal Act shall be capable of presenting a Petition for winding-up such Company unless the Members of the Company are reduced in Number to less than Seven, or unless the Shares in respect of which he is a Contributory, or some of them, either were originally allotted to him or have been held by him, and registered in his Name, for a Period of at least Six Months during the Eighteen Months previously to the Commencement of the Winding-up, or have devolved upon him through the Death of a former Holder:

Provided that where a Share has during the whole or any Part of the Six Months been held by or registered in the Name of the Wife of a Contributory either before or after her Marriage, or by or in the Name of any Trustee or Trustees for such Wife or for the Contributory, such Share shall for the Purposes of this Section be deemed to have been held by and registered in the Name of the Contributory.

Winding-up may be referred to County Court.

39. Where the High Court of Chancery in England makes an Order for winding-up a Company under the Principal Act, it may, if it thinks fit, direct all subsequent Proceedings to be had in a County Court held under an Act of the Session of the Ninth and Tenth Years of the Reign of Her present Majesty, Chapter Ninety-five, and the Acts amending the same; and thereupon such County Court shall, for the Purpose of winding-up the Company, be deemed to be "the Court" within the Meaning of the Principal Act, and shall have, for the Purposes of such Winding-up, all the Jurisdiction and Powers of the High Court of Chancery.

As to Transfer of Suit from one County Court to another.
28 & 29 Vict. c. 99. s. 11.

40. If during the Progress of a Winding-up it is made to appear to the High Court of Chancery that the same could be more conveniently prosecuted in any other County Court, it shall be competent for the High Court of Chancery to transfer the same to such other County Court, and thereupon the Winding-up shall proceed in such other County Court.

Parties aggrieved may appeal.

41. If any Party in a Winding-up under this Act is dissatisfied with the Determination or Direction of a Judge of a County Court on

on any Matter in such Winding-up, such Party may appeal from the same to the Vice-Chancellor named for that Purpose by the Lord Chancellor by General Order: Provided that such Party shall, within Thirty Days after such Determination or Direction, give
 5 Notice of such Appeal to the other Party or his Attorney, and also deposit with the Registrar of the County Court the Sum of Ten Pounds as Security for the Costs of the Appeal; and the said Court of Appeal may make such final or other Decree or Order as it thinks fit, and may also make such Order with respect to the Costs of the
 10 said Appeal as such Court may think proper, and such Orders shall be final.

28 & 29 Vict.
c. 99. s. 18.

42. The County Court Judges appointed or to be appointed by the Lord Chancellor from Time to Time to frame Rules and Orders for regulating the Practice of the Courts, and Forms of Proceedings
 15 therein, under the Thirty-second Section of an Act passed in the Nineteenth and Twentieth Years of the Reign of Her present Majesty, Chapter One hundred and eight, shall frame the Rules and Orders for regulating the Practice of the County Courts under this Act, and Forms of Proceedings therein, and from Time to Time may amend
 20 such Rules, Orders, and Forms; and such Rules, Orders, and Forms, or amended Rules, Orders, and Forms, certified under the Hands of such Judges or of any Three or more of them, shall be submitted to the Lord Chancellor, who may allow or disallow or alter the same, and so from Time to Time; and the Rules, Orders, and Forms, or amended
 25 Rules, Orders, and Forms, so allowed or altered, shall from a Day to be named by the Lord Chancellor be in force in every County Court.

Powers to frame Rules and Orders under 19 & 20 Vict. c. 108. See 28 & 29 Vict. c. 99, s. 16.

43. The County Court Judges mentioned in the last Section shall be empowered to frame a Scale of Costs and Charges to be
 30 paid to Counsel and Attorneys with respect to all Proceedings in a winding up under this Act, and from Time to Time to amend such Scale; and such Scale or amended Scale, certified under the Hands of such Judges or any Three or more of them, shall be submitted to the Lord Chancellor, who from Time to Time may
 35 allow or disallow or alter the same; and the Scale or amended Scale so allowed or altered shall, from a Day to be named by the Lord Chancellor, be in force in every County Court.

Scale of Costs to be framed by the Judges. 28 & 29 Vict. c. 99. s. 17.

44. The Registrars and High Bailiffs of the County Courts shall be remunerated for the Duties to be performed by them under this
 40 Act, by receiving, for their own Use, such Fees as may be from Time to Time authorized to be taken by any Orders to be made by the Commissioners of the Treasury, with the Consent of the Lord Chancellor;

Remuneration of Registrars and High Bailiffs in Winding-up of Companies.

28 & 29 Vict.
c. 99. s. 12. Chancellor; and the Commissioners of the Treasury are hereby authorized and empowered, with such Consent as aforesaid, from Time to Time to make such Orders.

Saving.

Saving of
25 & 26 Vict.
c. 89. s. 196. **45.** Nothing in this Act contained shall exempt any Company 5 from the Second or Third Provisions of the One hundred and ninety-sixth Section of the Principal Act restraining the Alteration of any Provision in any Act of Parliament or Charter.

Companies Act (1862) Amendment.

A

B I L L

[AS AMENDED IN COMMITTEE]

To amend "The Companies Act, 1862."

(Prepared and brought in by
Mr. Dodson, Mr. Stephen Cave, and Mr. Hunt.)

Ordered, by The House of Commons, to be Printed,
6 August 1867.

[Bill 304.]

Under 2 oz.



A

B I L L

INTITULED

An Act for the Establishment of a Table of Fees
to be taken on the Consecration of Churches,
Chapels, and Burial Grounds, and on the Ordina-
tion of Deacons and Priests.

WHEREAS in and by an Act passed in the Session of Preamble.
Parliament holden in the First and Second Years of the
Reign of Her present Majesty, intituled “An Act to 1 & 2 Vict.
“ abridge the holding of Benefices in Plurality, and to make better c. 106. s. 131.
5 “ Provision for the Residence of the Clergy,” it is amongst other
Things enacted, “That the Archbishop of Canterbury, the Lord
“ High Chancellor, and the Archbishop of York, with the Assist-
“ ance of the Vicars General of the said Two Archbishops, and
“ One of the Masters of the High Court of Chancery, to be selected
10 “ for that Purpose by the Lord High Chancellor, shall ordain and
“ establish Tables of Fees, and shall have Power from Time to
“ Time to amend or alter such Tables of Fees to be taken in
“ respect of Donation, Presentation, Nomination, Collation, Insti-
“ tution, Installation, Induction, or Licence, or any Instrument,
15 “ Matter, or Thing connected with the Admission of any Spiritual
[Bill 256.] “ Person

" Person to any Cathedral Preferment or any Benefice throughout
 " England and Wales by any Officer, Secretary, Clerk, or Minister
 " to whom belong the Duties of preparing, sealing, transacting, or
 " doing any of such Instruments, Matters, and Things ; and before
 " the Fees contained in such Tables or such amended Tables shall 5
 " be demanded, taken, or received by any of the said Persons, such
 " Tables or amended Tables shall be submitted to Her Majesty's
 " Privy Council, who may disallow the same or any Part thereof ;
 " and Notice shall be given in the London Gazette of such Sub-
 " mission to the Privy Council, and if within the Space of Three 10
 " Months from the Time of giving such Notice the same shall
 " not be disallowed, such Fees or such Parts thereof as shall not
 " be disallowed shall from and after the Expiration of the said
 " Three Months be deemed and taken to be lawful Fees, and
 " thenceforward such Fees and none others, save only such as may 15
 " be altered or subsequently ordained as before provided, shall be
 " demanded, taken, or received by any of such Officers, Secre-
 " taries, Clerks, or Ministers respectively under any Colour or
 " Pretence whatsoever : Provided always, that the said Persons
 " shall not ordain or establish any Fees exceeding the Fee which 20
 " for the Twenty Years next preceding the passing of this Act
 " shall have been usually taken for or in respect of the same
 " Instrument, Matter, or Thing in case of Admission to any
 " Cathedral Preferment or any Benefice within the Diocese of
 " London : Provided also, that the said Persons shall have Power 25
 " to ordain graduated Scales of Fees in respect of Benefices below
 " the yearly Value of Five hundred Pounds : " And whereas the
 " Fees payable to Chancellors or Vicars General, Registrars, Secre-
 " taries, and other Officers of Archbishops and Bishops on the
 " Consecration of Churches, Chapels, Cemeteries, and Burial Grounds, 30
 " the Grant of Faculties, and on the Ordination of Deacons and
 " Priests, and to Registrars and other Officers of Archbishops and
 " Bishops, and to Archdeacons and their Officials on Visitations of
 " Archbishops and Bishops and Archdeacons respectively, vary in the
 " several Dioceses of such Archbishops and Bishops, and it is expedient 35
 " that the same Fees be assimilated :

Be it therefore enacted by the Queen's most Excellent Majesty,
 by and with the Advice and Consent of the Lords Spiritual and
 Temporal, and Commons, in this present Parliament assembled, and
 by the Authority of the same, as follows :

40

Powers
 given in
 recited Act
 as to Fees to
 be exercised

1. From and after the passing of this Act the Powers given in and
 by the said recited Act with reference to the Fees for the Duties
 therein named shall extend to and be exercised by the Archbishop
 of Canterbury, the Lord Chancellor, the Archbishop of York, with
 the

the Assistance of the Vicars General of the said Two Archbishops, in the same Manner as respects the Fees and Payments to be made to Chancellors or Vicars General, Registrars, Secretaries, and other Officers on the Consecration of Churches, Chapels, Ceme-
5 teries, and Burial Grounds, on and incidental to the Grant of Faculties, and on the Ordination of Deacons and Priests, and to the Registrars and other Officers of Archbishops and Bishops, and to Archdeacons and their Officials on the Visitation of such Archbishops and Bishops and Archdeacons respectively. at Consecra-
tions and Or-
dinations.

Consecration and Ordination Fees. [H.L.]

A

BILL

INTRODUCED

An Act for the Establishment of a Table of Fees to be taken on the Consecration of Churches, Chapels, and Burial Grounds, and on the Ordination of Deacons and Priests.

(*Brought from the Lords 8 July 1867.*)

*Ordered, by The House of Commons, to be Printed,
15 July 1867.*

[Bill 256.]

Under 1 oz.



A

B I L L

INTITULED

An Act relating to the Consecration of Churches and Churchyards.

WHEREAS it is expedient to diminish the Expense attendant on the Consecration of Portions of Ground adjoining and added to existing Churchyards :

Be it therefore enacted by the Queen's most Excellent Majesty,
5 by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

1. Where any Ground adjoining to an existing Churchyard has been or is added thereto, the Bishop of the Diocese may, if he thinks
10 fit, at the Churchyard or in the Church to which it belongs, sign an Instrument declaring or recording the Consecration of such Ground, without the Presence of the Chancellor or Registrar of the Diocese being necessary ; and the Signature of the Bishop to such Instrument shall be attested by the Chancellor or by a
15 Surrogate or by any Two Clergymen of the Diocese, and shall be in the following Form, endorsed on a Plan of the Ground so added :
I, A.B., Bishop of _____, do hereby declare and record the Ground added to the Churchyard of _____, as on the within Plan, to be consecrated Ground and Part of the said Churchyard ;
20 and such Instrument, so signed and attested, on being deposited
[Bill 276.] A in
- Power for Bishop to sign Instrument of Consecration at Churchyard without Presence of Chancellor, &c.

2 *Consecration of Churches and Churchyards.*

in the Registry of the Diocese, shall have the same Effect as a Sentence of Consecration.

No Officer attending to take Fee.

2. No Officer of the Bishop or of the Diocese shall receive any Fee for Attendance at such Consecration, or any Allowance for travelling or for Attendance.

5

Fee for Deposit.

3. A Fee of Five Shillings shall be payable to the Registrar for the Deposit of every such Instrument of Consecration.

Powers given in School Sites Acts for Conveyance of Land to apply to Conveyances under this Act.

4. And whereas by an Act passed in the Fourth and Fifth Years of the Reign of Her present Majesty, intituled "An Act to afford further Facilities for the Conveyance and Endowment of 10 " Sites for Schools," and by another Act passed in the Thirteenth and Fourteenth Years of the Reign of Her present Majesty, intituled "An Act to extend and explain the Provisions of the Acts " for the granting of Sites for Schools," Powers are given to Persons being seised in Fee Simple, Fee Tail, or for Life of and in any 15 Manor or Lands of Freehold, Copyhold, or customary Tenure, and having the beneficial Interest therein, to grant, convey, or enfranchise, by way of Gift, Sale, or Exchange in Fee Simple or for Term of Years, any Quantity not exceeding One Acre of such Land as a Site for a School, and it is expedient that the same Powers should 20 be extended to Persons willing to grant Land for the Enlargement of Churchyards or Burial Places in England or Wales: Be it therefore enacted, That the said Acts shall be deemed to apply to all Persons desirous of granting Land for the Purpose of such Enlargement, in the same Way as if the said Land had been granted as a 25 Site for a School; provided nevertheless, that no such Grant shall be made otherwise than in Fee Simple, and may be made in the Form herein-after provided.

Form of Conveyance of Lands for adding to existing Churchyards.

5. Any Lands or Hereditaments adjoining any Churchyard may be conveyed for the Purpose of adding thereto by a Deed in 30 the Form following, with such Variations (if any) as the Circumstances of the Case may require:

' I [*or We, or the corporate Title of a Corporation,*] under the Authority of "The Consecration of Churchyards Act, 1867," do hereby freely and voluntarily give, grant, and convey [*or, as the 35 Case may be,* do hereby in consideration of the Sum of ' to me, or us, or the , paid, grant and convey] unto ' the Person or Persons, or Corporation Sole or Aggregate, in whom ' the Churchyard of is now vested, his or their ' Heirs or Successors, all [*describing the Hereditaments to be con- 40 veyed*] and all Right, Title, and Interest in the same and every ' Part thereof to be held for ever as Part of the said Churchyard:'

And

And every such Conveyance shall be valid and effectual in the Law to all Intents and Purposes.

6. From and after the Expiration of Five Years after the Conveyance of any Lands or Hereditaments for such Addition to any Churchyard and the Inclosure of the same within One Boundary Fence, although the same shall not have been consecrated and although no Burial shall have been had within the same during that Period of Time, the said Lands and Hereditaments shall, for the Purposes of this Act, become and be and remain absolutely vested in the Person or Persons or Corporation in whom the Churchyard to which they are added is vested free from all Demand or Claim of any Person or Persons or Corporation whatsoever, and without being thereafter subject to any Question as to any Right, Title, or Claim thereto or in any Manner affecting the same.

Application of the Provisions of Act of 3 G. 4. c. 72. s. 29. to Lands so added.

7. Except as is by this Act expressly enacted, nothing therein contained shall affect the Provisions of any Act of Parliament with reference to Lands or Hereditaments conveyed as Sites for Churchyards or to the Conveyances thereof.

Saving Provisions of former Acts.

8. Whenever any Land shall be so added to a consecrated Churchyard, and such Land shall have been the Gift of any Person whether resident or not in the Parish or Ecclesiastical District in which such Churchyard is situated, it shall be lawful for the Giver of such Land to reserve the exclusive Right in perpetuity of Burial and of placing Monuments and Gravestones in a Part of the Land so added, not exceeding Fifty Square Yards or One Sixth of the whole of the said Land, and the Part in which such exclusive Right is reserved shall be shown and coloured on the Plan, endorsed on the Instrument declaring or recording the Consecration of the Land added to the Churchyard; and a Memorandum in the Form following shall be written on the said Instrument, and signed by the Incumbent and Churchwardens of the Parish or Ecclesiastical District in which the same is situated :

Exclusive Right of Burial in a Portion of the Land added to a Churchyard may be secured to the Giver thereof.

We, *A.B.*, [Rector, Vicar, or Incumbent,] and *C.D.* and *E.F.*, Churchwardens, of _____, declare the Piece of Land [here insert the Description and Measurement], and coloured on this Plan, to be the Burial Place of *G.H.*, the Giver of the Land added to the Churchyard of _____ his Heirs and Assigns.

Signed *A.B.*,
C.D.,
E.F.,
in the Presence of *J.K.*

Dated this _____ Day of _____
And the Memorandum so signed shall, after such Land shall have been declared to have been consecrated, operate as an exclusive Right

Right in perpetuity in the Land therein referred to, and the Expenses of preparing and executing such Memorandum shall be borne by the Person by whom the Reservation is made.

Conditions attending such Grant of exclusive Right of Burial.

9. The exclusive Right of Burial and of placing Monuments and Gravestones as aforesaid shall be considered to be the Real Estate 5 of the Giver, his Heirs and Assigns, and no Body shall be buried or Monument or Gravestone placed in the Land in which such Rights have been granted, except by Consent of the Owner thereof for the Time being, but no such Reservation shall give the Right to bury the Body of any Person not entitled to be buried in consecrated 10 Ground, and the Bishop of the Diocese, and all Persons acting under his Authority, shall have the same Right and Powers to object to the placing and to procure the Removal of any monumental Inscription within the Ground so reserved as he has to object to or procure the Removal of any monumental Inscription in 15 any consecrated Ground: Provided always, that the Consent of the Owner for the Time being shall not be required for the Burial of a deceased Owner or of a Wife or Widow of any deceased Owner who has been buried or shall be about to be buried in such Ground.

As to closing of reserved Portion.

10. Such reserved Portion shall not be included in any Order in 20 Council under the Burial Acts for closing the Churchyard to which it belongs, but it may be closed under a separate Order founded on a special Report that the Ground is in such a State as to render any further Interments therein prejudicial to the Public.

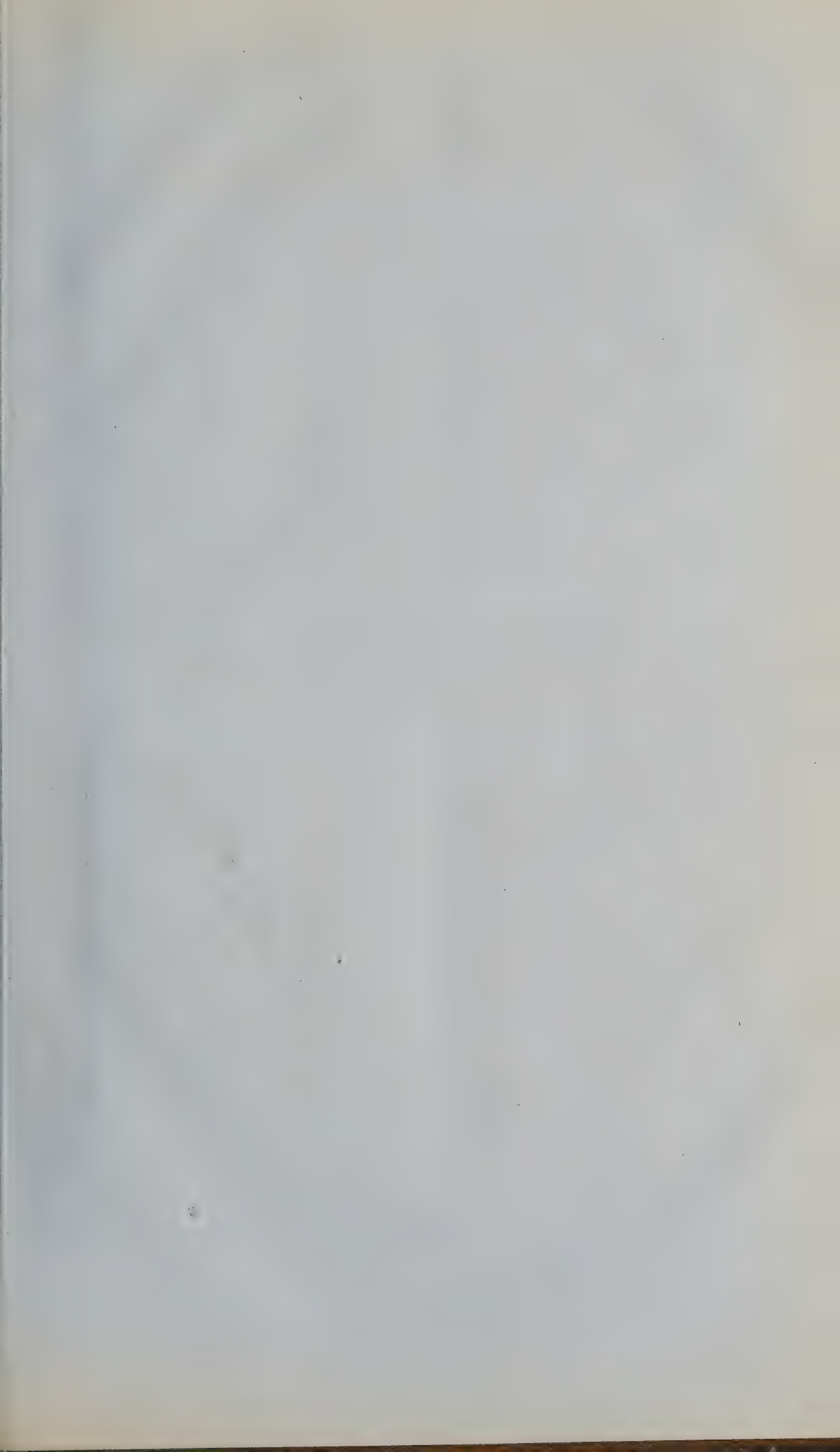
Where Communion Table has been moved, or Walls of Church have been partly demolished, Marriages, &c. to be valid, although the Church be not re-consecrated or reconciled.

11. And whereas Doubts are entertained whether in Cases where 25 a Church or Chapel has been repaired or enlarged, and the external Walls have been partly destroyed, or the Position of the Communion Table altered, a Reconsecration or Reconciliation of such Church or Chapel be not necessary in order to the due and valid Administration of Divine Offices there: Be it declared and enacted, That all 30 Marriages, Rites, and Ceremonies heretofore or hereafter celebrated or performed in a consecrated Church or Chapel which may have been repaired or enlarged prior to such Celebration or Performance shall be valid and effectual for all Purposes, notwithstanding that upon such Repair or Enlargement the external Walls of such 35 Church or Chapel may not have remained entire or the Position of the Communion Table may have been altered, and notwithstanding that since such Repair or Enlargement neither a Reconsecration nor a Reconciliation of such Church or Chapel may have taken place.

40

Short Title.

12. This Act may be cited as Church and Churchyards Consecration Act, 1867.



Consecration of Churches and Churchyards. [H.L.]

A

B I L L

INTITULED

An Act relating to the Consecration of
Churches and Churchyards.

(*Brought from the Lords 23 July 1867.*)

*Ordered, by The House of Commons, to be Printed,
24 July 1867.*

[Bill 276.]

Under 1 oz.



A

B I L L

INTITULED

An Act to continue and amend the Acts relating to Contagious or Infectious Diseases among Cattle and other Animals.

Note.—*The Words and Clauses printed in Red Ink are proposed to be inserted in Committee.*

BE it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

5

Preliminary.

1. This Act may be cited as The Contagious Diseases (Animals) Short Title. Act, 1867.

2. This Act shall not extend to Ireland.

Extent.

10 3. This Act shall be read as One Act with the Acts enumerated in the Schedule to this Act, as far as they remain in force after the passing of this Act, which Acts are in this Act referred to as the former Acts, and for that Purpose the Term "this Act," where used in any of the former Acts, shall be construed to include the present Act, and where used in this Act shall be construed to include each

Construc-
tion.

[Bill 196.] A of

of the former Acts, unless there is something in the Subject or Context inconsistent with such Construction.

Exception
of Swine.

4. Notwithstanding anything in Section Three of The Cattle Diseases Prevention Act, 1866, the Term "Animal" in that Act shall not include Swine.

5

Acts continued.

Continuance
of Acts
subject to
partial
Repeal.

5. Section Eleven of The Cattle Diseases Prevention Act, 1866, is hereby repealed as from the passing of this Act; and, subject to such Repeal, the former Acts as far as they are in force at the passing of this Act, save and except all such Parts thereof as 10 authorize the making or levying any Rate or the Application or Payment of any Monies arising out of any Rate, or the borrowing any Money on the Credit of any Rate, shall be and the same are hereby continued (subject to the Provisions of this Act) until the Expiration of Three Years after the passing of this Act and to the 15 End of the then next Session of Parliament; but nothing herein (except the Repeal aforesaid) shall be deemed to cause the Discontinuance of any Provision of any of the former Acts sooner than it would have ceased to operate if this Act had not been passed.

Local Authorities.

20

CLAUSE A.
Local Au-
thority in
Counties in
Scotland.

With respect to Section Five of The Cattle Diseases Prevention Act, 1866, (relating to Local Authorities in Counties in Scotland,) Vacancies from Time to Time happening by Death, Resignation, or otherwise, among the Members of such a Local Authority, shall be filled up by the Authority and in the Man-25 ner by and in which the Members vacating Office were respectively nominated; and the Persons nominated as in that Section or in this Section provided, and the Lord Lieutenant of the County, the Convener of the County, and the Sheriff of the County (or in his Absence such One of his Substitutes within the County as he30 directs by Writing under his Hand), for the Time being, shall constitute the Local Authority.

CLAUSE B.
Appoint-
ment of
Executive
Committee
by Local
Authority.

Where under Section Eight of The Cattle Diseases Prevention Act, 1866, a Local Authority forms a Committee, the Local Authority may, if it thinks fit, appoint and designate such Com-35 mittee as its Executive Committee for the Purposes of this Act, and any Committee so appointed and designated shall have all the Powers of the Local Authority except the Power to make a Rate, and shall have Power to appoint a Sub-Committee or Sub-Com-40 mittees, and to delegate to such Sub-Committee or Sub-Committees all or any of the Powers of the Executive Committee, and from Time to Time to revoke or alter any such Delegation, and shall also

also have Power to lay down Rules for the Guidance of such Sub-Committee or Sub-Committees; and every such Sub-Committee shall act according to such Rules; and the Provisions of the said Section Eight relative to the Constitution and Proceedings of Committees formed by the Local Authority shall extend and
5 apply to Sub-Committees formed by the Executive Committee.

Inspectors.

6. Notwithstanding anything in Section Nine of The Cattle Diseases Prevention Act, 1866, every Local Authority shall at all
10 Times keep appointed at least One such Inspector as in that Section mentioned; and where there is not at the passing of this Act any such Inspector for the District of any Local Authority, that Local Authority shall with all convenient Speed after the passing of this Act appoint at least One such Inspector.
- 15 The Privy Council may remove an Inspector appointed by a Local Authority, and thereupon the Local Authority shall appoint another Person to fill the Vacancy.

Appoint-
ment of
Inspectors
by Local
Authorities.

Discovery of Disease.

7. Every Inspector appointed by a Local Authority, on receiving
20 Information of the supposed Existence of Cattle Plague in any Place within his District, shall proceed to that Place with all practicable Speed, and execute and discharge the Powers and Duties by Law conferred and imposed on him as such Inspector.

Duty of In-
spector.

Infected Places.

- 25 8. Where an Inspector finds Cattle Plague to exist within his District he shall forthwith give Notice of the Fact to the Local Authority, and shall with all practicable Speed make a Statutory Declaration of the Fact before a Justice of the Peace, and send One Copy thereof to the Privy Council, and another to the Clerk of the
30 Local Authority, and thereupon the Field, Stable, Cowshed, or other Premises ~~where the Disease~~ is declared to have been found, and (except in the Metropolis) such Parts of the Area comprised within One Mile from the Boundaries thereof in every Direction as the Inspector prescribes in his Declaration, shall be deemed to
35 be an Infected Place.

Where
Cattle
Plague dis-
covered,
Place to be
deemed
infected.

9. The Clerk of the Local Authority shall with all practicable Speed, on receipt of such a Declaration of the Inspector, send Notice of such Declaration to the Clerks of all Local Authorities
any Part of whose respective Districts is within the Infected Place,
40 and publish Notice of the Fact of the Field, Stable, Cowshed, or other Premises, and the Area aforesaid, being an Infected Place, by Notices posted in and near the Infected Place and in such other Manner (if any) as they think expedient.

Notice of
Place being
infected.

Order of
Council as to
Infected
Place.

10. The Privy Council may, on the Application of any Local Authority concerned, prescribe or alter as they think fit the Limits of any such Infected Place, or may declare any such Place to have ceased to be an Infected Place.

Declaration
of Infected
Place by
Local Au-
thority or
Council.

11. The following Authorities, that is to say, any Local Authority with respect to any Place within their District, and the Privy Council with respect to any Place in Great Britain, may from Time to Time by Order declare any Field, Stable, Cowshed, or other Premises in which Cattle Plague exists at the Date of the Order or has existed within Seven Days before that Date, together with such an Area including the same as to such Authority seems requisite, to be from and after a Time specified in the Order an Infected Place.

Discontinu-
ance of
Declaration
of Infected
Place.

12. The Authority by whom an Infected Place is so declared may at any Time after the Expiration of Twenty-eight Days from the Disappearance of Cattle Plague in that Place by Order declare the Place to be free from such Disease, and thereupon from the Time specified in the Order the Place shall cease to be an Infected Place.

CLAUSE C.
Extension of
Area into
District of
other Au-
thority.

A Local Authority may include in the Area of an Infected Place any adjoining Part of the District of another Local Authority with the previous Consent of that Authority in Writing signed by their Clerk, but not otherwise.

Extent of
Infected
Place under
Declaration
of Local
Authority.

13. The Area of an Infected Place may in all Cases of a Declaration by a Local Authority include, with the Field, Stable, Cowshed, or other Premises in which Cattle Plague has been found to exist, all Lands being in the same Occupation and lying contiguous thereto, and (except in the Metropolis) an Area comprised within One Mile from the Boundaries of those Lands in every Direction.

Description
of Infected
Place.

14. The Area of an Infected Place may in any Case be described by reference to a Map deposited at some specified Place, or by reference to Townships, Parishes, Farms, or otherwise.

Notice of
Place being
declared
infected.

15. An Order of a Local Authority declaring a Place to be an Infected Place shall be published by the Local Authority by Notices posted in and near the Infected Place, and in such other Manner (if any) as they think expedient; and an Order of the Privy Council declaring a Place to be an Infected Place shall be published in like Manner by and at the Expense of any Local Authority to whom the same is sent by the Privy Council for Publication; but any Want of or Defect or Irregularity in Publication shall not invalidate any Order.

16. The

16. The Clerk of a Local Authority declaring a Place to be an Infected Place shall forthwith report by Post to the Privy Council the Fact of such Declaration having been made. Report to Council.

17. With respect to the Metropolis the Privy Council may from Time to Time by Order extend the Limits of an Infected Place beyond the Boundaries of the Field, Stable, Cowshed, Farm, or Premises where Cattle Plague is declared or found to exist. Area of Infected Places in Metropolis.

18. An Order of the Privy Council relative to the Declaration or to the Limits of an Infected Place shall supersede any Order of a Local Authority inconsistent with it. Effect of Orders of Council.

19. The following Rules shall have effect with respect to Infected Places : Rules as to Infected Places.

- (1.) No Animal shall be moved alive out of an Infected Place :
- (2.) The Hide, Skin, Horns, Hoofs, or Offal of any Animal or any Part thereof shall not be moved out of an Infected Place without the Licence in Writing of an Officer of the Local Authority appointed to issue Licences in that Behalf, certifying either that the Thing moved has not formed Part of an Animal affected with Cattle Plague, or of an Animal that has been in the same Shed or Stable, or in the same Herd or Flock, or in contact, with an Animal so affected, or that it has been disinfected :
- (3.) The Carcase of an Animal, or a single Portion of raw Meat weighing more than Twenty Pounds, shall not be moved out of an Infected Place without the Licence in Writing of an Officer of the Local Authority appointed in that Behalf, certifying that the Carcase or Meat moved is not the Carcase or Part of the Carcase of an Animal affected with Cattle Plague :
- (4.) Any Dung of Animals, and any Hay, Straw, Litter, or other Thing commonly used for Food of Animals or otherwise for or about Animals, shall not be moved out of an Infected Place without the Licence in Writing of an Officer of the Local Authority appointed in that Behalf, certifying that the Thing moved has not been in contact with or been used for or about any Animal affected with Cattle Plague, or that it has been disinfected :

But with respect to the Metropolis the Privy Council may from Time to Time by Order vary the Provisions of this Section.

20. If any Animal, Hide, Skin, Horn, Hoof, Offal, Carcase, Meat, Dung, Hay, Straw, Litter, or other Thing is moved in contravention of the Rules of this Act with respect to Infected Places, every Offences as to Infected Places.
 [196.] A 3 Person

Person moving the same, or causing the same to be moved, shall be deemed guilty of an Offence against this Act.

Exception
for Rail-
ways.

21. The Rules of this Act with respect to Infected Places shall not restrict the moving of any Animal or Thing by Railway through an Infected Place. 5

Duties of
Local Au-
thorities, &c.

22. It shall be the Duty of every Local Authority and of the Police of every County and Borough within their respective Districts to enforce and execute the Provisions of this Act and of any Order of the Local Authority or Privy Council thereunder relative to Infected Places, and to do or cause to be done all such Things as 10 are from Time to Time necessary or expedient for securing, as far as may be, the effectual Isolation of Infected Places in respect of the Movement of Animals and Things.

Authority of
Constable.

23. Any Constable may proceed as follows :

- (1.) He may apprehend any Person found committing an Offence 15 against the Rules of this Act with respect to Infected Places, and he shall take any Person so apprehended as soon as conveniently may be before a Justice of the Peace to be examined and dealt with according to Law ; and a Person so apprehended shall not be detained in Custody 20 by any Constable without the Order of a Justice longer than is necessary for bringing him before a Justice, or than Twenty-four Hours at longest :
- (2.) He may require that any Animal or Thing moved out of an Infected Place in contravention of those Rules be 25 forthwith taken back within the Limits of that Place, and may enforce and execute such Requisition.

Towns, Cities, &c.

Provisions
for Towns,
&c.

24. The Privy Council may from Time to Time by Order declare that such of the Provisions of this Act, and of any Order of the 30 Privy Council under it, as relate to the Metropolis, or any of those Provisions, shall also extend and apply to any Town, City, Parish, or Place specified in the Order, and the same shall extend to such Town, City, Parish, or Place accordingly ; and the Privy Council may at any Time revoke, or from Time to Time vary, any such Order. 35

Reports.

Reports to
Privy
Council.

25. Every Local Authority and every Inspector appointed by a Local Authority shall make such Reports to the Privy Council as the Privy Council from Time to Time require.

Expenses

Expenses of Local Authority.

CLAUSE D.
Expenses
of Local
Authority
other than
Compensa-
tion.

Where the Expenses incurred by a Local Authority in pursuance of this Act do not include any Compensation payable by it in respect of Animals slaughtered, the same shall be defrayed out of the Local Rate, as defined by The Cattle Diseases Prevention Act, 1866, and not out of a separate Rate; and in every such Case the following Provisions shall not extend and apply to the Local Rate; namely,—

The Provisions of Section Eighteen of The Cattle Diseases Prevention Act, 1866, relative to the Deduction of Part of the Rate by a Person not the Owner of Premises :

The Provisions of the same Section relative to the describing, collecting, or specifying of the Rate as a separate Rate or separate Item of Rate :

The Provisions of The Cattle Diseases Prevention Amendment Act, 1866.

Notwithstanding anything in any of the former Acts, the Local Authority of a County in Scotland may, if they think fit, pay in respect of Animals slaughtered in consequence of being affected with Cattle Plague in the Interval between the passing of The Cattle Diseases Prevention Act, 1866, and the Constitution of the Local Authority, such Compensation as would have been payable in respect of the same Animals if the Local Authority had been duly constituted at the Time of the same being slaughtered.

CLAUSE E.
Further
Provision
for Compensa-
tion in
Scotland.

Foreign Animals.

26. The Privy Council may from Time to Time by Order regulate the landing in Great Britain of Foreign Animals (that is to say, Animals brought by Sea from any Place out of the United Kingdom), either as regards the Port or Ports or as regards the Part or Parts of the Port or Ports at which such Animals may be landed, and may from Time to Time by Order prohibit or regulate the Removal and regulate the Disposal, by Slaughter or otherwise, of such Animals from or at any such Port or any Part thereof.

Regulations
respecting
landing, &c.
of Foreign
Animals.

Cleansing of Pens and Trucks.

27. It shall be the Duty of every Railway or other Company and every Person carrying Animals for Hire to thoroughly cleanse and disinfect, in such Manner as the Privy Council from Time to Time by Order direct, all Pens, Carriages, Trucks, Horse-boxes, Vehicles, and Boats used by such Company or Person for the carrying of Animals.

Railway
Companies
to disinfect
Carriages,
Boats, &c.

If any Company or Person on any Occasion fails to comply with the Requisitions of any such Order such Company or Person

8. *Contagious Diseases (Animals).*

shall on every such Occasion be deemed guilty of an Offence against this Act.

Section Ten of The Cattle Diseases Prevention Act, 1866, shall extend to authorize Entry by any such Person as therein described on Premises where he has reasonable Grounds for supposing that any such Pen, Carriage, Truck, Horse-box, Vehicle, or Boat is to be found, and that in respect thereof any Company or Person has on any Occasion failed to comply with the Requisitions of any such Order.

Disinfecting.

10

Regulations
for disinfect-
ing.

28. The Privy Council may from Time to Time by Order give Directions respecting Modes of disinfecting, and anything disinfected in accordance with the Provisions of such Order shall be deemed disinfected within this Act, but not otherwise.

Licences.

15

Publication
of Licences,
&c. issued
by Privy
Council.

29. Notwithstanding anything in any of the former Acts, where an Order of the Privy Council provides for the issuing, under the Direction of the Privy Council, of Licences for the Purposes of the Order, any Licence which the Privy Council from Time to Time direct to be so issued shall be valid if a Notice of the issuing thereof is published once in the London Gazette; and where an Order of the Privy Council provides for the Revocation of such Licences under the Direction of the Privy Council, any such Revocation which the Privy Council from Time to Time direct shall be valid if a Notice thereof is published once in the London Gazette.

Any such Licence or Revocation shall be published, by *and at the Expense of* any Local Authority to whom the same is sent by the Privy Council for Publication, in some Newspaper circulating in the District of the Local Authority, or in such other Manner as the Privy Council direct.

30

Offences.

Use of
expired
Licences, &c.

30. If any Person does any of the following Things he shall be deemed guilty of an Offence against this Act; that is to say,—

- (1.) If he does anything for which a Licence is requisite under any of the former Acts or this Act, or any Order of the Privy Council thereunder, without having obtained a Licence :
- (2.) If where such a Licence is requisite, having obtained a Licence in that Behalf, he does the Thing licensed after the Licence has expired :
- (3.) If he uses or offers or attempts to use as such a Licence an Instrument not being a complete Licence, or an Instrument

40

ment untruly purporting or appearing to be a Licence, unless he shows to the Satisfaction of the Justices before whom he is charged that he did not know of such Incompleteness or Untruth, and that he could not with reasonable Diligence have obtained such Knowledge :

(4.) If, with Intent to evade any Provision of any of the former Acts or of this Act or of any Order of the Privy Council thereunder, he fabricates or alters, or offers or utters, knowing the same to be fabricated or altered, any Declaration or Certificate made or issued or purporting to be made or issued under or for any Purpose of any of the former Acts or this Act or any such Order :

(5.) If for the Purpose of obtaining any Licence, Certificate, or Instrument under or for the Purposes of any such Provision he makes a Declaration false or incomplete in any material Particular, unless he shows to the Satisfaction of the Justices before whom he is charged that he did not know of such Falsity or Incompleteness, and that he could not with reasonable Diligence have obtained such Knowledge :

(6.) If he obtains or endeavours to obtain any such Licence, Certificate, or Instrument by means of any false Pretence, unless he shows to the Satisfaction of the Justices before whom he is charged that he did not know of such Falsity, and that he could not with reasonable Diligence have obtained such Knowledge :

(7.) If he grants or issues any such Licence, Certificate, or Instrument, being false or incomplete in any material Particular, unless he shows to the Satisfaction of the Justices before whom he is charged that he did not know of such Falsity or Incompleteness, and that he could not with reasonable Diligence have obtained such Knowledge :

and the Provisions of Section Ten of The Cattle Diseases Prevention Amendment Act, 1866, respecting Procedure and Punishment, shall apply to every such Offence.

31. If any Person is guilty of an Offence against this Act not comprised in the last foregoing Section, he shall for each such Offence be liable to such Penalty as is provided by Section Twenty-seven of The Cattle Diseases Prevention Act, 1866 ; and where any such Offence is committed in relation to Offal, Dung, Hay, Straw, Litter, or other Thing, a further Penalty not exceeding Ten Pounds may be imposed in respect of every Half Ton in Weight of such Offal or other Thing after the First Half Ton.

Penalties
for Offences.

Jurisdiction
for Trial of
Offences, &c.

32. For the Purposes of Proceedings under this Act, or any Order of the Privy Council or Order or Regulation of a Local Authority thereunder, every Offence against this Act or any such Order or Regulation shall be deemed to have been committed, and every Cause of Complaint under this Act or any such Order or Regulation shall be deemed to have arisen, either in the Place in which the same actually was committed or arose, or in any Place in which the Person charged or complained against happens to be. 5

Protection of Persons in Execution of Act.

Actions
against
Persons ex-
ecuting Act
not to be
brought
without
Notice, &c.

33. No Action or Proceeding shall lie against any Person acting or intending to act under the Authority or in the Execution or in pursuance of this Act for any alleged Irregularity or Trespass or other Act or Thing done or omitted by him under this Act, unless Notice in Writing (specifying the Cause of the Action or Proceeding, and the Name and Residence of the intending Plaintiff or Prosecutor, and of his Attorney or Agent in the Matter,) is given by the intending Plaintiff or Prosecutor to the intended Defendant One Month at least before the Commencement of the Action or Proceeding, nor unless the Action or Proceeding is commenced within Four Months next after the Act or Thing complained of is done or omitted, or in case of a Continuation of Damage within Four Months next after the doing of such Damage has ceased; and any such Action shall be laid and tried in the County or Place where the Cause of Action arose, and not elsewhere. 10 15 20 25

Plea in
Action.

34. In any such Action the Defendant may plead generally that the Act or Thing complained of was done or omitted by him when acting or intending to act under the Authority or in the Execution or in pursuance of this Act, and may give all special Matter in Evidence. 30

Evidence in
Action.

35. On the Trial of any such Action the Plaintiff shall not be permitted to go into Evidence of any Cause of Action not stated in his Notice.

Tender of
Amends, &c.

36. The Plaintiff in any such Action shall not succeed if Tender of sufficient Amends is made by the Defendant before the Commencement of the Action; and in case no Tender has been made the Defendant may, by Leave of the Court in which the Action is brought, at any Time pay into the Court such Sum of Money as he thinks fit, whereupon such Proceeding and Order shall be had and made in and by the Court as may be had and made on the Payment of Money into Court in an ordinary Action. 35 40

37. If

37. If in any such Action the Plaintiff does not succeed in obtaining Judgment the Defendant shall receive such full and reasonable Indemnity as to all Costs, Charges, and Expenses incurred in and about the Action as may be taxed and allowed by the proper Officer, subject to Review; and though a Verdict is given for the Plaintiff in the Action, he shall not have Costs against the Defendant unless the Judge before whom the Trial is had certifies his Approval of the Action and Verdict.

Costs of
Defendant.

Where any such Action or Proceeding is defended under the Direction or with the Approval of the Local Authority, the Costs, Charges, and Expenses incurred in and about the same by or on behalf of the Defendant and payable by him, and any Damages or other Money recovered against or payable by him in or in consequence of such Action or Proceeding, shall be deemed Expenses incurred by the Local Authority in pursuance of this Act, and shall be defrayed accordingly.

CLAUSE F.
Costs, &c. of
Defence to
Actions, &c.
under Direc-
tion of Local
Authority.

THE SCHEDULE.

Former Acts continued.

- 11 & 12 Vict. c. 107.—An Act to prevent until the First Day of September One thousand eight hundred and fifty, and to the End of the then Session of Parliament, the spreading of contagious or infectious Disorders among 5 Sheep, Cattle, and other Animals.
- 16 & 17 Vict. c. 62.—An Act to extend and continue an Act of the Twelfth Year of Her present Majesty, to prevent the spreading of contagious or infectious Disorders among Sheep, Cattle, and other Animals.
- 29 & 30 Vict. c. 2.—The Cattle Diseases Prevention Act, 1866. 10
- 29 & 30 Vict. c. 15.—An Act to amend the Act of the Eleventh and Twelfth Years of Her present Majesty, Chapter One hundred and seven, to prevent the spreading of contagious or infectious Disorders among Sheep, Cattle, and other Animals.
- 29 & 30 Vict. c. 110.—The Cattle Diseases Prevention Amendment Act, 15 1866.

Contagious Diseases (Animals).

[H.L.]

A

B I L L

INTITLED

An Act to continue and amend the Acts
relating to Contagious or Infectious
Diseases among Cattle and other
Animals.

(Brought from the Lords 7 June 1867.)

Ordered, by The House of Commons, to be Printed,
7 June 1867.

[Bill 196.]

Under 2 oz.

Contagious Diseases (Animals) Bill. [H.L.]

[AS AMENDED IN COMMITTEE.]

ARRANGEMENT OF CLAUSES.

Clause.

Preliminary.

1. Short Title.
2. Extent.
3. Construction.
4. Meaning of Privy Council.—CLAUSE A.
5. Exception of Swine.

Acts continued.

6. Continuance of Acts subject to partial Repeal.

Local Authorities.

7. Local Authority in Counties in Scotland.—CLAUSE B.
8. Appointment of Executive Committee by Local Authority.—
CLAUSE C.

Inspectors.

9. Appointment of Inspectors by Local Authorities.

Discovery of Disease.

10. Duty of Inspector.
11. Extension of Power of Entry for Inspectors, &c.—CLAUSE D.

Infected Places.

12. Where Cattle Plague discovered, Place to be deemed infected.
13. Notice of Place being infected.
14. Order of Council as to Infected Place.
15. Declaration of Infected Place by Local Authority or Council.
16. Discontinuance of Declaration of Infected Place.
17. Extension of Area into District of other Authority.—CLAUSE E.
18. Extent of Infected Place under Declaration of Local Authority.
19. Description of Infected Place.
20. Notice of Place being declared infected.
21. Report to Council.
22. Area of Infected Places in Metropolis.

[Bill 228.]

a

23. Effect

Clause.

- 23. Effect of Orders of Council.
- 24. Rules as to Infected Places.
- 25. Offences as to Infected Places.
- 26. Exception for Railways.
- 27. Further Rules as to Infected Places.—CLAUSE F.
- 28. Duties of Local Authorities, &c.
- 29. Authority of Constable.

Towns, Cities, &c.

- 30. Provisions for Towns, &c.

Reports.

- 31. Reports to Privy Council.

Compensation and Expenses.

- 32. Power to withhold Compensation in case of Offences, &c.—
CLAUSE G.
- 33. Expenses of Local Authority other than Compensation.—
CLAUSE H.
- 34. Further Provision for Compensation in Scotland.—CLAUSE I.
- 35. Assessment and Collection of Local Rate in Counties in
Scotland.—CLAUSE K.

Rate in Aid.

- 36. Half-yearly Accounts of Compensation.—CLAUSE L.
- 37. Application by Local Authority for Audit.—CLAUSE M.
- 38. Regulations respecting Audit.—CLAUSE N.
- 39. Power for Poor Law Board to make Order of Contribution.—
CLAUSE O.
- 40. Basis for Contribution.—CLAUSE P.
- 41. Contribution to be a Debt.—CLAUSE Q.
- 42. Raising of Money for Contribution.—CLAUSE R.
- 43. Payment of Money for Contribution.—CLAUSE S.
- 44. Provision against disputing of Orders.—CLAUSE T.

Foreign Animals.

- 45. Regulations respecting landing, &c. of Foreign Animals.

Cleansing of Pens and Trucks.

- 46. Railway Companies to disinfect Carriages, Boats, &c.

Disinfecting.

- 47. Regulations for disinfecting.

Licences.

Clause.

Licences.

48. Publication of Licences, &c. issued by Privy Council.

Offences.

49. Use of expired Licences, &c.
50. Penalties for Offences.
51. Jurisdiction for Trial of Offences, &c.

Protection of Persons in Execution of Act.

52. Actions against Persons executing Act not to be brought without Notice, &c.
53. Plea in Action.
54. Evidence in Action.
55. Tender of Amends, &c.
56. Costs of Defendant.
57. Costs, &c. of Defence to Actions, &c. under Direction of Local Authority.—CLAUSE U.

SCHEDULE.



A

B I L L

[AS AMENDED IN COMMITTEE]

INTITULED

An Act to continue and amend the Acts relating
to Contagious or Infectious Diseases among
Cattle and other Animals.

BE it enacted by the Queen's most Excellent Majesty, by and
with the Advice and Consent of the Lords Spiritual and
Temporal, and Commons, in this present Parliament as-
sembled, and by the Authority of the same, as follows :

5

Preliminary.

1. This Act may be cited as The Contagious Diseases (Animals) Short Title.
Act, 1867.

2. This Act shall not extend to Ireland.

Extent.

3. This Act shall be read as One Act with the Acts enumerated
10 in the Schedule to this Act, as far as they remain in force after the Construc-
passing of this Act, which Acts are in this Act referred to as the tion.
former Acts, and for that Purpose the Term "this Act," where used
in any of the former Acts, shall be construed to include the present
Act, and where used in this Act shall be construed to include each
15 of the former Acts, unless there is something in the Subject or
[Bill 228.] A Context

Context inconsistent with such Construction; and such of the former Acts as are first, secondly, and fourthly described in the Schedule may be cited by the respective Short Titles appended to the Descriptions thereof in the Schedule; and the former Acts and this Act may be cited together as The Contagious Diseases (Animals) Acts. 5

CLAUSE A.
Meaning
of Privy
Council.

4. Notwithstanding anything in any of the former Acts, the Term "Privy Council" in the former Acts and this Act shall, as regards the issuing and Revocation of Licences under an Order of Council, be construed to mean the Lords and others of Her Majesty's Most Honourable Privy Council or any Two of them, or 10 the Lord President of the Council, or One of Her Majesty's Principal Secretaries of State.

Exception
of Swine.

5. Notwithstanding anything in Section Three of The Cattle Diseases Prevention Act, 1866, the Term "Animal" in that Act shall not include Swine. 15

Acts continued.

Continuance
of Acts
subject to
partial
Repeal.

6. Sections Eleven and Seventeen of The Cattle Diseases Prevention Act, 1866, are hereby repealed as from the passing of this Act, and the Residue of Part I. of that Act shall be deemed to be and to have always been in force at and before the passing of this Act; 20 and, subject to such Repeal, the former Acts, as far as they are in force at the passing of this Act, shall be and the same are hereby continued (subject to the Provisions of this Act) until the Expiration of Three Years after the passing of this Act and to the End of the then next Session of Parliament; but nothing herein 25 (except the Repeal aforesaid) shall be deemed to cause the Discontinuance of any Provision of any of the former Acts sooner than it would have ceased to operate if this Act had not been passed.

Local Authorities.

CLAUSE B.
Local Au-
thority in
Counties in
Scotland.

7. With respect to Section Five of The Cattle Diseases Pre- 30 vention Act, 1866, relating to Local Authorities in Counties in Scotland, Vacancies from Time to Time happening by Death, Resignation, or otherwise, among the Members of such a Local Authority, shall be filled up by the Authority and in the Manner by and in which the Members vacating Office were respectively 35 nominated; and the Persons nominated as in that Section or in this Section provided, and the Lord Lieutenant of the County, the Convener of the County, and the Sheriff of the County (or in his Absence such One of his Substitutes within the County as he directs by Writing under his Hand), for the Time being, shall con- 40 stitute

stitute the Local Authority ; and the Chairman of the Local Authority, and in default of him the Convener of the County, and in default of him any Three Members of the Local Authority, may at any Time call a Meeting of the Local Authority, to be held at such
5 Time and Place as he or they may fix.

CLAUSE C.
Appoint-
ment of
Executive
Committee
by Local
Authority.

8. Where under Section Eight of The Cattle Diseases Prevention Act, 1866, a Local Authority forms a Committee, the Local Authority may, if it thinks fit, appoint and designate such Committee as its Executive Committee for the Purposes of this Act, and
10 any Committee so appointed and designated shall have all the Powers of the Local Authority except the Power to make a Rate, and shall have Power to appoint a Sub-Committee or Sub-Committees, and to delegate to such Sub-Committee or Sub-Committees all or any of the Powers of the Executive Committee, with or
15 without Conditions or Restrictions, and from Time to Time to revoke or alter any such Delegation, and shall also have Power to fix the Quorum, and from Time to Time to add to or diminish the Number of the Members, or otherwise alter the Constitution, of any such Sub-Committee, and to lay down Rules for the
20 Guidance of any such Sub-Committee ; and every such Sub-Committee shall act according to such Rules ; and the Provisions of the said Section Eight relative to the Constitution and Proceedings of Committees formed by the Local Authority shall extend and apply to Sub-Committees formed by the Executive Committee.

25 *Inspectors.*

9. Notwithstanding anything in Section Nine of The Cattle Diseases Prevention Act, 1866, every Local Authority shall at all Times keep appointed at least One such Inspector as in that Section mentioned ; and where there is not at the passing of this Act any
30 such Inspector for the District of any Local Authority, that Local Authority shall with all convenient Speed after the passing of this Act appoint at least One such Inspector.

Appoint-
ment of
Inspectors
by Local
Authorities.

The Privy Council may remove an Inspector appointed by a Local Authority, and thereupon the Local Authority shall appoint another
35 Person to fill the Vacancy.

Discovery of Disease.

10. Every Inspector appointed by a Local Authority, on receiving Information of the supposed Existence of Cattle Plague in any Place within his District, shall proceed to that Place with all practicable Speed, and execute and discharge the Powers and
40 Duties by Law conferred and imposed on him as such Inspector.

Duty of In-
spector.

CLAUSE D.
Extension
of Power of
Entry for
Inspectors,
&c.

11. Section Ten of The Cattle Diseases Prevention Act, 1866, shall be read and have Effect as if the Words "any Animal affected" were therein substituted for the Words "Cattle affected."

Infected Places.

Where
Cattle
Plague dis-
covered,
Place to be
declared
infected.

12. Where an Inspector finds Cattle Plague to exist within his District he shall forthwith give Notice of the Fact to the Local Authority, and shall with all practicable Speed make a Statutory Declaration of the Fact before a Justice of the Peace (which shall be for all Purposes conclusive Evidence of the Fact), and send One Copy thereof to the Privy Council, and another to the Clerk of the Local Authority, and on such Declaration being made the Field, Stable, Cowshed, or other Premises where the Disease is declared to have been found, and (except in the Metropolis) such Parts of the Area comprised within One Mile from the Boundaries thereof in every Direction as the Inspector prescribes in his Declaration, shall be deemed to be an Infected Place.

Notice of
Place being
infected.

13. The Clerk of the Local Authority shall with all practicable Speed, on Receipt of such a Declaration of the Inspector, send Notice of such Declaration to the Clerks of all Local Authorities any Part of whose respective Districts is within the Infected Place, and publish Notice of the Fact of the Field, Stable, Cowshed, or other Premises, and the Area aforesaid, being an Infected Place, by Notices posted in and near the Infected Place and in such other Manner (if any) as they think expedient.

Order of
Council as to
Infected
Place.

14. The Privy Council may, on the Application of any Local Authority concerned, prescribe or alter as they think fit the Limits of any such Infected Place, or may declare any such Place to have ceased to be an Infected Place.

Declaration
of Infected
Place by
Local Au-
thority or
Council.

15. The following Authorities, that is to say, any Local Authority with respect to any Place within their District, and the Privy Council with respect to any Place in Great Britain, may from Time to Time by Order declare any Field, Stable, Cowshed, or other Premises in which Cattle Plague exists at the Date of the Order or has existed within Seven Days before that Date, together with such an Area including the same as to such Authority seems requisite, to be from and after a Time specified in the Order an Infected Place.

Discontin-
uance of
Declaration
of Infected
Place.

16. The Local Authority by whom an Infected Place is so declared may at any Time after the Expiration of Twenty-eight Days from the Disappearance of Cattle Plague in that Place by Order declare the Place to be free from Cattle Plague, and the Privy Council may at any

any Time by Order declare any Place to be free from Cattle Plague, and thereupon as from the Time specified in this Behalf in the Order of the Local Authority or Privy Council the Place shall cease to be an Infected Place.

- 5 **17.** A Local Authority may include in the Area of an Infected Place any adjoining Part of the District of another Local Authority, with the previous Consent of that Authority in Writing signed by their Clerk, but not otherwise.

CLAUSE E.
Extension of
Area into
District of
other Au-
thority.

- 10 **18.** The Area of an Infected Place may in all Cases of a Decla-
ration by a Local Authority include, with the Field, Stable, Cowshed,
or other Premises in which Cattle Plague has been found to exist,
all Lands being in the same Occupation and lying contiguous
thereto, and (except in the Metropolis) an Area comprised within
One Mile from the Boundaries of those Lands in every Direction.

Extent of
Infected
Place under
Declaration
of Local
Authority.

- 15 **19.** The Area of an Infected Place may in any Case be described
by Reference to a Map deposited at some specified Place, or by
Reference to Townships, Parishes, Farms, or otherwise.

Description
of Infected
Place.

- 20 **20.** An Order of a Local Authority declaring a Place to be an
Infected Place shall be published by the Local Authority by
20 Notices posted in and near the Infected Place, and in such other
Manner (if any) as they think expedient; and an Order of the Privy
Council declaring a Place to be an Infected Place shall be published
in like Manner by and at the Expense of any Local Authority to
whom the same is sent by the Privy Council for Publication; but
25 any Want of or Defect or Irregularity in Publication shall not
invalidate any Order.

Notice of
Place being
declared
infected.

- 30 **21.** The Clerk of a Local Authority declaring a Place to be
an Infected Place, or declaring a Place to be free from Cattle
Plague, shall forthwith report by Post to the Privy Council the
Fact of such Declaration having been made.

Report to
Council.

- 22.** With respect to the Metropolis the Privy Council may from
Time to Time by Order extend the Limits of an Infected Place
beyond the Boundaries of the Field, Stable, Cowshed, Farm, or
Premises where Cattle Plague is declared or found to exist.

Area of In-
fected Places
in Metro-
polis.

- 35 **23.** An Order of the Privy Council relative to an Infected Place
shall supersede any Order of a Local Authority inconsistent with it.

Effect of
Orders of
Council.

Rules as to
Infected
Places.

24. The following Rules shall have Effect with respect to Infected Places :

- (1.) No Animal shall be moved alive out of an Infected Place :
- (2.) The Hide, Skin, Horns, Hoofs, or Offal of any Animal or any Part thereof shall not be moved out of an Infected Place 5 without the Licence in Writing of an Officer of the Local Authority appointed to issue Licences in that Behalf, certifying either that the Thing moved has not formed Part of an Animal affected with Cattle Plague, or of an Animal that has been in the same Shed or Stable, or in the 10 same Herd or Flock, or in contact, with an Animal so affected, or that it has been disinfected :
- (3.) The Carcase of an Animal, or a single Portion of raw Meat weighing more than Twenty Pounds, shall not be moved out of an Infected Place without the Licence in Writing 15 of an Officer of the Local Authority appointed in that Behalf, certifying that the Carcase or Meat moved is not the Carcase or Part of the Carcase of an Animal affected with Cattle Plague :
- (4.) Any Dung of Animals, and any Hay, Straw, Litter, or other 20 Thing commonly used for Food of Animals or otherwise for or about Animals, shall not be moved out of an Infected Place without the Licence in Writing of an Officer of the Local Authority appointed in that Behalf, certifying that the Thing moved has not been in contact with or been 25 used for or about any Animal affected with Cattle Plague, or that it has been disinfected :

But with respect to the Metropolis the Privy Council may from Time to Time by Order vary the Provisions of this Section.

Offences as
to Infected
Places.

25. If any Animal, Hide, Skin, Horn, Hoof, Offal, Carcase, Meat, 30 Dung, Hay, Straw, Litter, or other Thing is moved in contravention of the Rules of this Act with respect to Infected Places, every Person moving the same, or causing the same to be moved, shall be deemed guilty of an Offence against this Act.

Exception
for Rail-
ways.

26. The Rules of this Act with respect to Infected Places shall 35 not restrict the moving of any Animal or Thing by Railway through an Infected Place.

CLAUSE F.
Further
Rules as to
Infected
Places.

27. The Privy Council may from Time to Time by Order make Rules with respect to Infected Places not inconsistent with the Rules of this Act, and Rules so made shall be deemed Rules of this 40 Act with respect to Infected Places.

28. It

28. It shall be the Duty of every Local Authority and of the Police of every County, Borough, Town, and Place within their respective Districts to enforce and execute the Provisions of this Act and of any Order of the Local Authority or Privy Council there-
 5 under relative to Infected Places, and to do or cause to be done all such Things as are from Time to Time necessary or expedient for securing, as far as may be, the effectual Isolation of Infected Places in respect of the Movement of Animals and Things.

Duties of Local Authorities, &c.

29. Any Constable may proceed as follows :

- 10 (1.) He may apprehend any Person found committing an Offence against the Rules of this Act with respect to Infected Places, and he shall take any Person so apprehended as soon as conveniently may be before a Justice of the Peace to be examined and dealt with according to Law ; and a
 15 Person so apprehended shall not be detained in Custody by any Constable without the Order of a Justice longer than is necessary for bringing him before a Justice, or than Twenty-four Hours at longest :
- 20 (2.) He may require that any Animal or Thing moved out of an Infected Place in contravention of those Rules be forthwith taken back within the Limits of that Place, and may enforce and execute such Requisition.

Authority of Constable.

Towns, Cities, &c.

30. The Privy Council may from Time to Time by Order declare that such of the Provisions of this Act, and of any Order of the Privy Council under it, as relate to the Metropolis, or any of those Provisions, shall also extend and apply to any Town, City, Parish, or Place specified in the Order, and the same shall extend to such Town, City, Parish, or Place accordingly ; and the Privy Council may
 30 at any Time revoke, or from Time to Time vary, any such Order.

Provisions for Towns, &c.

Reports.

31. Every Local Authority and every Inspector appointed by a Local Authority shall make such Reports to the Privy Council as the Privy Council from Time to Time require.

Reports to Privy Council.

Compensation and Expenses.

35 32. Notwithstanding anything in the former Acts, a Local Authority may, if they think fit, withhold Compensation in respect of any Animal slaughtered, where the Owner or Person having the Charge of such Animal has been guilty, in relation to such Animal, of any
 40 Act in contravention of any of the former Acts or this Act, or of

CLAUSE G.
 Power to withhold Compensation in case of Offences, &c.

any Order, Regulation, or Licence of the Privy Council or a Local Authority, or has, in relation to such Animal, failed to comply with the Provisions of any such Act, Order, Regulation, or Licence in respect of the giving of Notice of Disease or in any other respect.

CLAUSE H.
Expenses
of Local
Authority
other than
Compensa-
tion.

33. Where the Expenses incurred by a Local Authority in 5 pursuance of this Act do not include any Compensation payable by them in respect of Animals slaughtered, the same shall be defrayed out of the Local Rate, as defined by The Cattle Diseases Prevention Act, 1866, and not out of a separate Rate; and in every such Case the following Provisions shall not extend and apply to 10 the Local Rate; namely,—

The Provisions of Section Eighteen of The Cattle Diseases Prevention Act, 1866, relative to the Deduction of Part of the Rate by a Person not the Owner of Premises :

The Provisions of the same Section relative to the describing, 15 collecting, or specifying of the Rate as a separate Rate or separate Item of Rate :

The Provisions of The Cattle Diseases Prevention Amendment Act, 1866.

CLAUSE I.
Further
Provision
for Compen-
sation in
Scotland.

34. Notwithstanding anything in any of the former Acts, the 20 Local Authority of a County in Scotland may, if they think fit, pay in respect of Animals slaughtered in consequence of being affected with Cattle Plague in the Interval between the passing of The Cattle Diseases Prevention Act, 1866, and the Constitution of the Local Authority, such Compensation as would have been 25 payable in respect of the same Animals if the Local Authority had been duly constituted at the Time of the same being slaughtered; and, if necessary for the Purpose of making Payment of such Compensation, the Local Authority shall have and be entitled to exercise the same Powers of assessing and levying Money as are com- 30 petent to Local Authorities in reference to Local Rates or Cattle Act Expenses under any of the former Acts.

CLAUSE K.
Assessment
and Collec-
tion of Local
Rate in
Counties in
Scotland.

35. The Commissioners of Supply of a County in Scotland may assess and collect the Local Rate mentioned in Section Twenty-one of The Cattle Diseases Prevention Act, 1866, either on and from the 35 Tenants of Lands and Heritages as therein provided or on and from the Proprietors thereof (and that either with or without Relief against the Tenants for One Half of the Assessment) according as it may be declared in the Resolutions imposing the same, and with the like Powers in regard to the Recovery of Assessments as are 40 mentioned in that Section.

Rate

Rate in Aid.

36. Each Local Authority shall cause an Account of their Expenditure in Compensation for Animals slaughtered to be made up to Michaelmas and Lady Day in each Year, or to such other half-yearly Days as the Poor Law Board from Time to Time direct.

CLAUSE L.
Half-yearly
Accounts of
Compensa-
tion.

37. Where from such half-yearly Account of a Local Authority it appears that their Expenditure in Compensation in any Half Year exceeds the Rate of _____ in the Pound per Annum on the annual rateable Value of the Property in the District, the Local Authority may apply to the Poor Law Board for an Audit of their Accounts for that Half Year, and the Poor Law Board shall direct an Audit accordingly.

CLAUSE M.
Application
by Local
Authority
for Audit.

38. With respect to such Audit the following Rules shall have Effect:

CLAUSE N.
Regulations
respecting
Audit.

- (1.) The Auditor shall be appointed by the Poor Law Board:
- (2.) The Auditor shall receive such Remuneration as the Poor Law Board direct, and the same shall be paid by the Local Authority, and shall, with the Expenses of or incident to the Audit, be deemed Expenses incurred by the Local Authority in pursuance of this Act:
- (3.) The Audit shall be held at a Place approved by the Poor Law Board and at the Time fixed by the Auditor, being as soon as may be after the Application for the Audit:
- (4.) The Auditor shall, Fourteen Days at least before holding the Audit, give Notice of the Time and Place for the holding thereof by Advertisement in a Newspaper circulating in the District, and by a written Notice delivered to or served on the Clerk of the Local Authority:
- (5.) The Clerk of the Local Authority shall attend the Audit, and produce to the Auditor all Books, Bills, Vouchers, and Documents relating to the Account:
- (6.) Any Ratepayer in the District may be present at the Audit, and may object to the Account:
- (7.) The Auditor shall, as nearly as may be, have the like Powers, and be under the like Obligation, to allow and disallow Items in the Account, as in the Case of an Audit under the Authority of the Poor Law Board of the Account of an Overseer; and there may be an Appeal by any Person aggrieved by the Decision of the Auditor, in like Manner, as nearly as may be, as in the Case of such last-mentioned Audit:
- (8.) When the Auditor has completed his Audit, he shall sign the Account, and shall also sign and deliver to the Poor

Law Board and to the Local Authority a Certificate of the Amount allowed:

- (9.) Subject to the foregoing Provisions the Poor Law Board may from Time to Time make such Regulations respecting the Audit as they think fit.

5

CLAUSE O.
Power for
Poor Law
Board to
make Order
of Contri-
bution.

39. If on any such Audit it appears to the Poor Law Board from the Certificate of the Auditor that the Expenditure of the Local Authority in Compensation within the Half Year of Account has exceeded the Rate of in the Pound per Annum on the annual rateable Value of the Property in the District of the 10 Local Authority, the Poor Law Board shall make a General Order directed to the several Local Authorities whose Districts adjoin to the District of the Local Authority on whose Behalf the Order is made, and to the several Local Authorities whose Districts are locally situate (wholly or partly) within the District of the Local 15 Authority on whose Behalf the Order is made or within such adjoining Districts, and shall thereby require those several Local Authorities to contribute a Sum of Money to meet such Excess of Expenditure.

CLAUSE P.
Basis for
Contribution.

40. The Sums to be so contributed by Local Authorities shall be 20 assessed on them by the Poor Law Board, in proportion to the annual rateable Value of the Property in their respective Districts, to be determined according to the Valuation Lists, or where there are none on such other Basis as the Poor Law Board from Time to Time direct.

25

CLAUSE Q.
Contribution
to be a Debt.

41. The Sums ordered to be so contributed by a Local Authority shall be a Debt due from them to the Local Authority on whose Behalf the Order is made, and the Order of the Poor Law Board shall be for all Purposes conclusive Evidence of the Existence and Amount of such Debt.

30

CLAUSE R.
Raising of
Money for
Contribution.

42. The Money so contributed by a Local Authority shall be deemed Expenses incurred by them in pursuance of this Act, and shall be raised accordingly by the Local Rate or a separate Rate, in manner provided by Section Eighteen of The Cattle Diseases Prevention Act, 1866.

35

CLAUSE S.
Payment of
Money for
Contribution.

43. The Amount to be so contributed by a Local Authority shall, when raised, be paid to the Treasurer or other proper Officer of the Local Authority on whose Behalf the Order of the Poor Law Board is made.

44. An

11

CLAUSE T.
Provision
against dis-
puting of
Orders.

44. An Order of the Poor Law Board under this Act shall not be liable to be removed into a Court of Law by Certiorari or otherwise, nor shall an Order of a Local Authority, or a Rate, made to carry into effect the Provisions of this Act relative to Contribution, be
5 liable to Question in a Court of Law, on the Ground of its having been made wholly or partly in furtherance of any such Order of the Poor Law Board.

Foreign Animals.

45. The Privy Council may from Time to Time by Order
10 regulate the landing in Great Britain of Foreign Animals (that is
to say, Animals brought by Sea from any Place out of the United
Kingdom), either as regards the Port or Ports or as regards the Part
or Parts of the Port or Ports at which such Animals may be landed,
and may from Time to Time by Order prohibit or regulate the
15 Removal and regulate the Disposal, by Slaughter or otherwise, of
such Animals from or at any such Port or any Part thereof.

Regulations
respecting
landing, &c.
of Foreign
Animals.

Cleansing of Pens and Trucks.

46. It shall be the Duty of every Railway or other Company and every Person carrying Animals for Hire to thoroughly cleanse and
20 disinfect, in such Manner as the Privy Council from Time to Time by Order direct, all Pens, Carriages, Trucks, Horse-boxes, Vehicles, and Boats used by such Company or Person for the carrying of Animals.

**Railway
Companies
to disinfect
Carriages,
Boats, &c.**

25 If any Company or Person on any Occasion fails to comply with the Requisitions of any such Order, such Company or Person shall on every such Occasion be deemed guilty of an Offence against this Act.

Section Ten of The Cattle Diseases Prevention Act, 1866, shall extend to authorize Entry by any such Person as therein described
30 on Premises where he has reasonable Grounds for supposing that any such Pen, Carriage, Truck, Horse-box, Vehicle, or Boat is to be found, and that in respect thereof any Company or Person has on any Occasion failed to comply with the Requisitions of any such Order.

Disinfecting.

47. The Privy Council may from Time to Time by Order give Directions respecting Modes of disinfecting, and anything disinfected in accordance with the Provisions of such Order shall be deemed disinfected within this Act, but not otherwise.

Regulations
for disinfect-
ing.

Licences.

48. A Licence under an Order of the Privy Council, or a Revocation of such a Licence, issued or made either before or after the

[228.] B 2 passing

Publication
of Licences,
&c. issued
by Privy
Council.

passing of this Act, shall not be deemed an Order or Regulation made by the Privy Council within the Meaning of Section Seven of The Contagious Diseases (Animals) Act, 1866; and any such Licence or Revocation shall be deemed to be and to have been valid if a Notice of the issuing thereof is or has been published 5 once in the London Gazette.

Any such Licence or Revocation shall be published by and at the Expense of any Local Authority to whom the same is sent by the Privy Council for Publication, in some Newspaper circulating in the District of the Local Authority, or in such other Manner as the 10 Privy Council direct.

Offences.

Use of
expired
Licences, &c.

49. If any Person does any of the following Things he shall be deemed guilty of an Offence against this Act; that is to say,—

- (1.) If he does anything for which a Licence is requisite under 15 any of the former Acts or this Act, or any Order of the Privy Council thereunder, without having obtained a Licence :
- (2.) If where such a Licence is requisite, having obtained a Licence in that Behalf, he does the Thing licensed after 20 the Licence has expired :
- (3.) If he uses or offers or attempts to use as such a Licence an Instrument not being a complete Licence, or an Instrument untruly purporting or appearing to be a Licence, unless he shows to the Satisfaction of the Justices before 25 whom he is charged that he did not know of such Incompleteness or Untruth, and that he could not with reasonable Diligence have obtained such Knowledge :
- (4.) If, with Intent to evade any Provision of any of the former Acts or of this Act or of any Order of the Privy Council 30 thereunder, he fabricates or alters, or offers or utters, knowing the same to be fabricated or altered, any Declaration or Certificate made or issued or purporting to be made or issued under or for any Purpose of any of the former Acts or this Act or any such Order : 35
- (5.) If for the Purpose of obtaining any Licence, Certificate, or Instrument under or for the Purposes of any such Provision he makes a Declaration false or incomplete in any material Particular, unless he shows to the Satisfaction of the Justices before whom he is charged that he did not 40 know of such Falsity or Incompleteness, and that he could not with reasonable Diligence have obtained such Knowledge :

(6.) If

(6.) If he obtains or endeavours to obtain any such Licence, Certificate, or Instrument by means of any false Pretence, unless he shows to the Satisfaction of the Justices before whom he is charged that he did not know of such Falsity, and that he could not with reasonable Diligence have obtained such Knowledge :

(7.) If he grants or issues any such Licence, Certificate, or Instrument, being false or incomplete in any material Particular, unless he shows to the Satisfaction of the Justices before whom he is charged that he did not know of such Falsity or Incompleteness, and that he could not with reasonable Diligence have obtained such Knowledge :

And the Provisions of Section Ten of The Cattle Diseases Prevention Amendment Act, 1866, respecting Procedure and Punishment, shall apply to every such Offence.

50. If any Person is guilty of an Offence against this Act not comprised in the last foregoing Section, he shall for each such Offence be liable to such Penalty as is provided by Section Twenty-seven of The Cattle Diseases Prevention Act, 1866; and where any such Offence is committed in relation to Offal, Dung, Hay, Straw, Litter, or other Thing, a further Penalty not exceeding Ten Pounds may be imposed in respect of every Half Ton in Weight of such Offal or other Thing after the First Half Ton.

51. For the Purposes of Proceedings under this Act, or any Order of the Privy Council or Order or Regulation of a Local Authority thereunder, every Offence against this Act or any such Order or Regulation shall be deemed to have been committed, and every Cause of Complaint under this Act or any such Order or Regulation shall be deemed to have arisen, either in the Place in which the same actually was committed or arose, or in any Place in which the Person charged or complained against happens to be.

Protection of Persons in Execution of Act.

52. No Action or Proceeding shall lie against any Person acting or intending to act under the Authority or in the Execution or in pursuance of this Act for any alleged Irregularity or Trespass or other Act or Thing done or omitted by him under this Act, unless Notice in Writing (specifying the Cause of the Action or Proceeding, and the Name and Residence of the intending Plaintiff or Prosecutor, and of his Attorney or Agent in the Matter,) is given by the intending Plaintiff or Prosecutor to the intended Defendant One Month at least before the Commencement of the

Action or Proceeding, nor unless the Action or Proceeding is commenced within Four Months next after the Act or Thing complained of is done or omitted, or in case of a Continuation of Damage within Four Months next after the doing of such Damage has ceased; and any such Action shall be laid and tried in the 5 County or Place where the Cause of Action arose, and not elsewhere.

Plea in
Action.

53. In any such Action the Defendant may plead generally that the Act or Thing complained of was done or omitted by him when acting or intending to act under the Authority or in the Execution 10 or in pursuance of this Act, and may give all special Matter in Evidence.

Evidence in
Action.

54. On the Trial of any such Action the Plaintiff shall not be permitted to go into Evidence of any Cause of Action not stated in his Notice. 15

Tender of
Amends, &c.

55. The Plaintiff in any such Action shall not succeed if Tender of sufficient Amends is made by the Defendant before the Commencement of the Action; and in case no Tender has been made the Defendant may, by Leave of the Court in which the Action is brought, at any Time pay into the Court such Sum of Money as he 20 thinks fit, whereupon such Proceeding and Order shall be had and made in and by the Court as may be had and made on the Payment of Money into Court in an ordinary Action.

Costs of
Defendant.

56. If in any such Action the Plaintiff does not succeed in obtaining Judgment the Defendant shall receive such full and 25 reasonable Indemnity as to all Costs, Charges, and Expenses incurred in and about the Action as may be taxed and allowed by the proper Officer, subject to Review; and though a Verdict is given for the Plaintiff in the Action, he shall not have Costs against the Defendant unless the Judge before whom the Trial is had certifies 30 his Approval of the Action and Verdict.

CLAUSE U.
Costs, &c. of
Defence to
Actions, &c.
under Direc-
tion of Local
Authority.

57. Where any such Action or Proceeding is defended under the Direction or with the Approval of the Local Authority, the Costs, Charges, and Expenses incurred in and about the same by or on behalf of the Defendant and payable by him, and any Damages or 35 other Money recovered against or payable by him in or in consequence of such Action or Proceeding, shall be deemed Expenses incurred by the Local Authority in pursuance of this Act, and shall be defrayed accordingly.

THE

THE SCHEDULE.

Former Acts continued.

- 11 & 12 Vict. c. 107.—An Act to prevent until the First Day of September
One thousand eight hundred and fifty, and to the End of the then Session
5 of Parliament, the spreading of contagious or infectious Disorders among
Sheep, Cattle, and other Animals. [The Contagious Diseases (Animals) Act,
1848.]
- 16 & 17 Vict. c. 62.—An Act to extend and continue an Act of the Twelfth
Year of Her present Majesty, to prevent the spreading of contagious or
10 infectious Disorders among Sheep, Cattle, and other Animals. [The Con-
tagious Diseases (Animals) Act, 1853.]
- 29 & 30 Vict. c. 2.—The Cattle Diseases Prevention Act, 1866.
- 29 & 30 Vict. c. 15.—An Act to amend the Act of the Eleventh and Twelfth
Years of Her present Majesty, Chapter One hundred and seven, to prevent
15 the spreading of contagious or infectious Disorders among Sheep, Cattle,
and other Animals. [The Contagious Diseases (Animals) Act, 1866.]
- 29 & 30 Vict. c. 110.—The Cattle Diseases Prevention Amendment Act,
1866.

Contagious Diseases (Animals).
[H.L.]

A

B I L L

[AS AMENDED IN COMMITTEE]

INTITULÉD

An Act to continue and amend the Acts
relating to Contagious or Infectious
Diseases among Cattle and other
Animals.

(*Brought from the Lords 7 June 1867.*)

*Ordered, by The House of Commons, to be Printed,
4 July 1867.*

[Bill 228.]

Under 3 oz.

[To be substituted for Bill
[119.] already delivered.]

Corrupt Practices at Elections Bill.

ARRANGEMENT OF CLAUSES.

Preliminary.

Clauses.

1. Short Title of Act.
2. Interpretation of Terms.
3. Provision as to Speaker.
4. Provision as to Returning Officer.

Presentation of Petition.

5. Petition complaining of corrupt Practices.
6. Regulations as to Petition.
7. Petition to be forwarded to Speaker.

Appointment of Election Commissioners.

8. Appointment of Election Commissioners.
9. Qualification of Election Commissioners.
10. Speaker to select Election Commissioners.
11. Returning Officer to give Notice of Time and Place of Hearing.
12. Investigation of Charges in Petition.
13. Resolution of House on Report.
14. Motions may be made for Reference of Petition to Select Committee.
15. Candidate complained of not to take Seat till Resolution on Report.
16. Additional Penalties or Bribery, &c.
17. Commissioners to make special Report as to Persons guilty of Bribery.
18. Penalty on employing Agent convicted of bribing.

Petition.

19. Joint Respondents to petition.
20. Power to withdraw Petition.
21. Power of Voters to defend Seat.
22. Application of Act to all Charges of Bribery, &c. against Candidates.

SUPPLEMENTAL PROVISIONS.

Election Commissioners and their Proceedings.

Clauses.

23. Remuneration of Election Commissioners and Secretary to Commissioners.
24. Powers of Commissioners.
25. Inquiry to be public ; Court to be provided by Returning Officer.
26. Proceedings of the Commissioners.
27. Commissioners to be attended by a Shorthand Writer.
28. Expenses of Witnesses.
29. Indemnity to Witnesses.

Costs.

30. Fees of Returning Officer.
31. Expenses of Returning Officer.
32. Salaries of Commissioners.
33. General Costs of Petition.
34. Commissioners to certify Amount of Costs due.
35. Certificate of Commissioners to be conclusive.
36. Recognizance, when to be estreated, &c.
37. Power of Speaker to make Amendments.
38. Calculation of Time.
39. Provisions as to Under Sheriff.
40. Services of Notices.

Miscellaneous.

41. Penalty for false swearing, &c.
42. No Stamps on Recognizances or Affidavits.
43. Protection of Commissioners.
44. Limitation of Actions.

Application of Act to Scotland.

45. Application of Act to Scotland.

Application of Act to Ireland.

46. Application of Act to Ireland.

SCHEDULES.



A

B I L L

TO

Provide for the more effectual Prevention of corrupt Practices and undue Influence at Parliamentary Elections.

WHEREAS it is expedient to amend the Laws relating to corrupt Practices at Parliamentary Elections, and to diminish the Expense attending the Trial of controverted Elections in Cases where corrupt Practices are alleged to have prevailed at such Elections :

Preamble.

Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

10

Preliminary.

1. This Act may be cited for all Purposes as "The Corrupt Practices at Elections (Trial) Act, 1867."

Short Title
of Act.

[Bill 119.] +

A

2. The

Interpreta-
tion of
Terms.

2. The following Terms shall in this Act have the Meanings herein-after assigned to them, unless there is something in the Context repugnant to such Construction ; (that is to say,)

- "Election :—" "Election" shall mean an Election of a Member or Members to serve in Parliament : 5
- "County :—" "County" shall not include a County of a City or County of a Town, but shall mean any County, Riding, Parts, or Division of a County returning a Member or Members to serve in Parliament :
- "Borough" "Borough" shall mean any Borough, University, City, Place, or Combination of Places, not being a County as herein-before defined, returning a Member or Members to serve in Parliament : 10
- "Voter :—" "Voter" shall mean any Person who has or claims to have a Right to vote in the Election of a Member or Members to serve in Parliament : 15
- "Candidate." "Candidate" shall mean any Person elected to serve in Parliament at an Election, and any Person who has been nominated as or declared himself a Candidate at an Election :
- "Bribery," &c. The Expressions "Bribery," "Treating," and "undue Influence," shall respectively have the same Meanings as they now have by Law in Cases where a Candidate is charged with any of the said Offences before an Election Committee of the House of Commons. 20

Provision as
to Speaker.

3. For the Purposes of this Act "Speaker" shall be deemed to include Deputy Speaker ; and when the Office of Speaker is vacant, the Clerk of the House of Commons, or any other Officer for the Time being performing the Duties of the Clerk of the House of Commons, shall be deemed to be substituted for and to be included in the Expression "the Speaker." 25

Provision as
to Returning
Officer.

4. "Returning Officer" shall have the same Meaning in this Act as it has in the Acts relating to the Registration of Parliamentary Voters, with this Exception, that the Sheriff shall for the Purposes of this Act be deemed to be the Returning Officer in all Cases where he is by Law empowered to appoint a Returning Officer ; and if in any Case there is no Returning Officer, or if for any Reason such Returning Officer is incapable from performing the Duties imposed on him by this Act, the Parker may, on the Application of any Person interested, appoint a Returning Officer, or a Person to act in the Place of such incapacitated Officer. 30 35

Presentation of Petition.

40

Petition
complaining
of corrupt
Practices.

5. Where any Candidate returned to serve in Parliament at any Election for a County or Borough is charged with having committed at

at such Election, by himself or his Agents, the Offences of Bribery, Treating, and undue Influence, or any of such Offences, a Petition complaining of the Return of such Candidate on the ground of his having committed such Offences, or any of them, may be presented
5 to the Returning Officer by any Candidate at such Election, or by any *Three* Voters of such County or Borough, or by any such Candidate and Voters, and such Petition may or may not claim the Seat for any other Candidate at such Election.

6. The following Regulations shall be observed with respect to a
10 Petition of Complaint under this Act : Regulations
as to Pe-
tition.

1. The Petition shall, be printed, and shall, as nearly as Cir-
cumstances admit, be in the Form marked (A.) in the
Schedule hereto :
2. The Petition shall be signed by the Petitioner, or all the
15 Petitioners, if more than One :
3. The Petition shall be presented within *Two Months* after the
final Declaration of the Poll at the Election to which the
Petition refers :
4. Presentation of a Petition shall be made by delivering it to
20 the Returning Officer, or by sending it in a registered
prepaid Letter addressed to the Returning Officer, and when
so sent by Post it shall be deemed to have been presented at
the Time when it would have been delivered in the ordinary
Course of the Post :
- 25 5. At the Time of the Presentation of the Petition, or within
Three Days afterwards, a Recognizance to the Amount of
One thousand Pounds shall be entered into on behalf of the
Petitioner or Petitioners by One or more Sureties, not
exceeding Four in Number, conditioned for Payment of all
30 Costs, Charges, and Expenses that may be payable by the
Petitioner :
6. The Recognizance shall be accompanied by an Affidavit by the
Surety, or if more than One by each Surety, sworn at the Time
of entering into the said Recognizance, and before the same
35 Person by whom his Recognizance is taken, to the Effect that
he is seised or possessed of Real or Personal Estate (or both),
above what will be due to his Debts, of the clear Value of the
Sum for which he is bound by his Recognizance :
7. The Recognizance and Affidavit shall respectively be, as
40 nearly as Circumstances admit, in the Form marked (B.) in
the Schedule hereto :
8. Every Recognizance herein-before required shall be entered
into, and every Affidavit herein-before required shall be
sworn, before the Returning Officer or a Justice of the

Peace; and the Returning Officer, and also every Justice of the Peace, is hereby empowered to take the same; and every such Recognizance and Affidavit taken before a Justice, being duly certified under the Hand of such Justice, shall be delivered by the Petitioner to the Returning Officer: 5

9. Notice of the Presentation of a Petition, and of the Names of the Persons proposed as Sureties to the Recognizance, accompanied with a printed Copy of the Petition, shall, within *Five Days* after the Presentation of the Petition, be served by the Petitioner on the Candidate whose Return is complained 10 of, and who is herein-after referred to as the Respondent:

10. The Respondent may, within *Four Days* after the Service of such Notice, object before the Returning Officer to the Recognizance, on the Ground of the Insufficiency of the Sureties: 15

11. The Returning Officer shall decide on the Validity of the Objections, and may, if he thinks any Surety insufficient, require another Surety to be substituted.

Petition to
be forwarded
to Speaker.

7. When the foregoing Regulations have been complied with, the Returning Officer shall retain the original Petition and Recognizance, but shall forward Copies thereof to the Speaker in a registered prepaid Letter, with a view to the Charges contained in such Petition being investigated in manner herein-after mentioned. 20

Appointment of Election Commissioners.

Appoint-
ment of
Election
Commis-
sioners.

8. As soon as may be after the *passing of this Act* the Speaker 25 shall form a List of Persons willing and in his Opinion able to investigate any Charges of Bribery, Treating, or undue Influence made in Election Petitions under this Act; and such List is herein-after referred to as the Panel of Election Commissioners.

The Speaker may from Time to Time add any Name to the Panel 30 of Election Commissioners, or take any Name off such Panel.

The Speaker shall from Time to Time report to the House the Panel of Election Commissioners, and any Alteration made therein, but such Panel shall remain in force notwithstanding the Prorogation or Dissolution of Parli 35

Qualification
of Election
Commis-
sioners.

9. No Person shall be placed on the Panel of Election Commis- sioners to serve in England unless he is qualified as follows; viz.

Is a Barrister or Serjeant at Law of not less than *Seven Years* Standing, and in actual Practice, or is or has been a Judge of One of Her Majesty's Superior Courts in England, or of the 40 Court of Admiralty, or a Commissioner in Bankruptcy, or a Judge of a County Court, or Recorder of London, or a Stipen-

Stipendiary Magistrate, or a Judge of some Supreme Court in some Part of Her Majesty's Colonial Dominions, or in India.

The Qualifications of Election Commissioners for Scotland and Ireland shall be such as are herein-after mentioned.

5

Investigation of Charges of Petition.

10. Within *Seven Days* after the Receipt of an Election Petition the Speaker shall select from the Panel of Election Commissioners *Three* Persons to be Commissioners for the Purpose of investigating the Charges contained in the Petition, and shall name One of such
 10 Persons to be Chairman, and shall forward the Names of the Persons so selected to the Returning Officer from whom the Petition was received :

Speaker to select Election Commissioners.

Any Vacancy occurring in the Number of Election Commissioners appointed to investigate the Charges contained in a
 15 Petition, by Death, Resignation, or Incapacity, shall be forthwith filled up by the Speaker ; and until such Appointment is made the other Commissioners may proceed with the Investigation.

11. Upon the Receipt of the Names of the selected Commissioners, the Returning Officer shall serve Notice on the Parties
 20 to the Petition of a Day, not more than *Fourteen Days* from the Date of such Receipt, when, and of a Place where, the Commissioners will meet to investigate the Charges contained in the Petition.

Returning Officer to give Notice of Time and Place of Hearing.

12. At the Time and Place appointed the Commissioners shall
 25 proceed to investigate the Charges contained in the Petition, and shall, so far as practicable, continue such Investigation from Day to Day. On the Termination of the Investigation the Commissioners shall report to the Speaker whether, in their Opinion, the Candidate whose Return is complained of has or has not been
 30 guilty of the Charges made against him, or of any of them ; they shall also, where the Petition claims the Seat for any Candidate, and the Claim is insisted on, inquire and report whether such last-mentioned Candidate has or has not been proved guilty of the Offences of Bribery, Treating, and undue Influence, or of any of
 35 them, and if not, whether he has or has not a Majority of legal Votes at such Election. The Commissioners shall also report whether it has been proved to them that the Offences of Bribery, Treating, or undue Influence, or any of them, have prevailed extensively in the County or Borough the Election for which they
 40 have been investigating.

Investigation of Charges in Petition.

Where any Candidate is reported guilty of the Offences of Bribery, Treating, and undue Influence, or any of them, the Report shall state whether he is guilty personally or by his Agents.

The Report of the Commissioners may be in the Form marked (C.) in the Schedule hereto.

Resolution
of House on
Report.

13. On the Receipt of the Report the Speaker shall, as soon as practicable, communicate it to the House of Commons, and lay the Report on the Table. The House of Commons shall order the Report 5 to be entered in their Journals, and shall, if no such Motion is made and Resolution passed as is herein-after mentioned, give the necessary Directions for either confirming or altering the Return, or ordering a Writ for a new Election to be issued.

Motions may
be made for
Reference of
Petition to
Select Com-
mittee.

14. Any Member of the House of Commons may, within the 10 Period of *Fourteen Days* after the Report has been laid on the Table, exclusive of any Time during which the House is not sitting, move the House that the Report of the Commissioners be referred to an Election Committee on Grounds to be stated by him to the House, and the House may resolve accordingly, and in the event of such 15 Resolution being carried the Petition on which the Report has been made shall be deemed to be an Election Petition within the Meaning of the Act of the Session of the Eleventh and Twelfth Years of the Reign of Her present Majesty, Chapter Ninety-eight, and to have been presented within the Time limited for the Presentation of 20 Election Petitions, and shall be dealt with accordingly, with these Exceptions :

1. That, in addition to the Recognizances required by the said Act, the Petitioner must prove to the Satisfaction of the Examiner of Recognizances that he has paid all Costs, 25 Charges, and Expenses due from him on account of the Investigation by the Election Commissioners of the Charges contained in such Petition :
2. That on the hearing of the Petition by the Select Committee no Evidence shall be received except that taken 30 by a Shorthand Writer as herein-after mentioned on the Investigation by the Commissioners.

Amendment of the Law as to corrupt Practices.

Candidate
complained
of not to take
Seat till
Resolution
on Report.

15. Where a Report has been presented by the Election Commissioners under this Act before the Candidate whose Return is 35 complained of takes his Seat, and the Report is to the Effect that such Candidate has been guilty of the Offences of Bribery, Treating, or undue Influence, or any of them, he shall not take his Seat until and unless he is declared by an Election Committee in manner herein-before mentioned not to have been guilty of the said Offences 40 or any of them.

16. Any

16. Any Candidate for a County or Borough who is found guilty of the Offences of Bribery, Treating, or undue Influence, or any of such Offences, by a Report of the Election Commissioners under this Act, and whose Return is in consequence made void, shall, in addition to any Penalties to which he is otherwise subject by Law, be disqualified as follows; that is to say:

Additional Penalties of Bribery, &c.

If found personally guilty of any of the above Offences, he shall, the first Time that he is so found guilty, be incapable of being elected, or sitting in the House of Commons, for a Period of *Five Years*; and if found personally guilty of such Offence a Second Time, he shall thenceforth be incapable during the Remainder of his Life of being elected or sitting in the House of Commons.

If found guilty by his Agents of any of the above Offences, his Election shall be void, and he shall be incapable of being elected or sitting in Parliament for the same County or Borough during the Parliament then in existence.

17. The Commissioners shall report specially to the Speaker the Names of any Persons, other than the Candidate complained of, who have been proved before them to have been guilty of Bribery, Treating, or undue Influence, or of any of such Offences, and who have not been furnished by them with Certificates of Indemnity in pursuance of the Power herein-after given; and such Report, with the Evidence thereon, shall be laid before the Attorney General with a view to his instituting at the Public Expense a Prosecution against such Persons if the Evidence is, in his Opinion, sufficient to support a Prosecution.

Commissioners to make special Report as to Persons guilty of Bribery.

18. If any Candidate knowingly employs at any Election the Services of any Person who before the passing of this Act has been or may hereafter be found guilty of Bribery, Treating, and undue Influence, or any of such Offences, by any competent Court, or by any Committee of the House of Commons, or by the Election Commissioners under this Act, or by any Commissioners appointed under any other Act to inquire into the Conduct of Elections, the Election of such Candidate shall be void.

Penalty for employing Agent convicted of bribing.

35

SUPPLEMENTAL PROVISIONS.

Petition.

19. Two or more Candidates may be made Respondents to the same Petition, and their Case may for the sake of Convenience be heard at the same Time, but for all the Purposes of this Act such Petition shall be deemed to be a separate Petition against each Respondent.

Joint Respondents to petition.

[119.]

A 4

20. The

Power to
withdraw
Petition.

20. The Petitioner may at any Time withdraw his Petition on serving Notice on the Respondent of his Intention to withdraw the same, and on paying all Costs, Charges, and Expenses that may have been incurred by the Respondent in relation to such Petition, and on further giving Notice to the Returning Officer if the 5 Petition is withdrawn before the same has been forwarded to the Speaker, to the Speaker if the Petition is withdrawn after he has received the same and before the Appointment of the Election Commissioners, and to the Election Commissioners if the Withdrawal takes place after their Appointment. 10

The Amount of any Costs, Charges, and Expenses to be paid as aforesaid shall be determined as follows; viz., by the Returning Officer if the Withdrawal take place before the Appointment of Election Commissioners, and by the Election Commissioners if such Withdrawal take place after their Appointment. 15

The Certificate of the Returning Officer or of the Commissioners, as the Case may be, directing any Sum to be paid by way of Costs by one Party to the Petition to another Party shall be conclusive Evidence of a Debt due from the one Party to the other of the Sum stated therein, and may be recovered accordingly. 20

The Death of a sole Petitioner, or of the Survivor of several Petitioners, shall be deemed to be equivalent to the Withdrawal of the Petition, unless other Persons apply in manner herein-after mentioned to be admitted as Petitioners; but where there are more Petitioners than One the Survivor or Survivors may proceed with 25 the Petition in the same Manner as if no Death had taken place.

If at any Time after the Presentation of an Election Petition, and before a Report has been made thereon by the Commissioners, the Petitioner, or, if there are more Petitioners than One, the Survivor of the Petitioners, dies, any Number not exceeding Three of the 30 Voters of the County or Borough for which the Respondent was returned may apply to be admitted as Petitioners, and shall be admitted accordingly. An Application under this Section by Voters to be admitted as Petitioners shall be made before the Appointment of the Election Commissioners to the Returning Officer, and after 35 such Appointment to the Election Commissioners; and the Admission of such Voters as Petitioners shall, upon Proof of the Facts to the Satisfaction of the Returning Officer or Election Commissioners, be testified by Endorsement under his or their Hands on the Election Petition. 40

Persons admitted as Petitioners under this Section shall enter into the like Recognizances as the original Petitioners, and on entering into such Recognizances shall stand in the same Position, as nearly as may be, and be subject to the same Liabilities, as if they had originally been Petitioners. 45

21. If

21. If at any Time after the Presentation of an Election Petition in which the Seat is claimed, and before a Report has been made thereon by the Commissioners, the Respondent dies, is made a Peer of Great Britain, or declines to defend his Return, any *Three* or
 5 more Voters of the County or Borough for which the Respondent was returned may apply to be admitted as Respondents to the Petition, and shall be admitted accordingly. An Application under this Section by Voters to be admitted as Respondents shall be made before the Appointment of the Election Commissioners to the Re-
 10 turning Officer, and after such Appointment to the Election Commissioners; and the Admission of such Voters as Respondents shall, upon Proof of the Facts to the Satisfaction of the Returning Officer or Election Commissioners, be testified by Endorsement under his or their Hands on the Election Petition.
- 15 Persons admitted as Respondents under this Section shall stand in the same Position, as nearly as may be, and be subject to the same Liabilities, as if they had originally been Respondents to the Petition.

Power of
Voters to
defend Seat.

Where the House of Commons resolves that the Seat of any
 20 Candidate whose Return has been complained of under this Act has become vacant, the same Proceedings may be had with respect to the Petition as if such Candidate had died.

If on the Occurrence of any of the Events aforesaid no Appli-
 cation is made within *Fourteen Days* by any Parties to become
 25 Respondents to the Petition, the Petition shall be deemed to be at an end, and the Parties to the Petition shall respectively be liable to pay their own Costs, Charges, and Expenses.

22. No Petition complaining of the Return of any Candidate on the Ground of Bribery, Treating, or undue Influence shall be
 30 dealt with otherwise than in manner provided by this Act.

Application
of Act to all
Charges of
Bribery, &c.
against
Candidates.

Election Commissioners and their Proceedings.

23. There shall be paid to each Election Commissioner the Sum
 of Pounds for his Services in respect of each Election
 Petition.
- 35 The Election Commissioners may appoint a Secretary, who shall be paid a Sum of Pounds for his Services in respect of each Election Petition, and shall perform such Duties as may be required by the Commissioners.

Remunera-
tion of Elec-
tion Com-
missioners
and Secre-
tary to Com-
missioners.

24. The Commissioners appointed to investigate the Charges
 40 contained in an Election Petition shall have all such Powers, Rights, and Privileges as on the Occasion of any Action or Suit are vested in or exerciseable by any of Her Majesty's Superior

Powers of
Commis-
sioners.

Courts, or in any Judge thereof, in any of the Matters following; that is to say,—

(1.) The enforcing the Attendance of Witnesses, and examining them on Oath, Affirmation, or otherwise, as they or he may think fit: 5

(2.) The compelling the Production of Documents :

(3.) The punishing Persons guilty of Contempt :

And a Summons under the Hand or Hands of One or more of the Commissioners may be substituted for and shall be equivalent to any Form of Process capable of being issued at Law in any Action 10 or Suit for enforcing the Attendance of Witnesses or compelling the Production of Documents.

Any Warrant of Committal to Prison issued for the Purpose of enforcing the Powers conferred by this Section shall be under the Hand or Hands of One or more of the Commissioners, and shall 15 specify the Prison to which the Offender is to be committed, and shall not authorize the Imprisonment of any Offender for a Period exceeding *Three Calendar Months*.

Inquiry to be public.

25. The Investigation under this Act of the Charges contained in an Election Petition shall be conducted in public, and due Notice 20 shall be given by the Election Commissioners of the Time and Place of holding the same.

All Questions before the Commissioners shall be decided by a Majority of Voices.

Court to be provided by Returning Officer.

..The Returning Officer shall provide a Court, with all necessary 25 Accommodation for the Sitzings of the Commissioners.

Proceedings of the Commissioners.

26. The Commissioners may adjourn from Time to Time as Occasion may require; the Commissioners shall, so far as Circumstances admit, conduct their Proceedings in the same Manner and subject to the same Rules with respect to Proof of Agency and 30 Treating, with respect to Lists of Voters objected to, with respect to the Admission of recriminatory Evidence and to a Scrutiny, and generally in respect of all other Matters in and subject to which the Proceedings of Election Committees are conducted; but they may, if they think fit, deviate from the usual Course of Election 35 Committees for the Purpose of better securing the Objects for which they are appointed.

The Proceedings of the Commissioners shall not be affected by any Prorogation of Parliament.

Whenever the Commissioners think it necessary to deli- 40 berate among themselves upon any Question arising in the Course of the Investigation, or upon the Determination thereof, or upon any Resolution concerning the Matter of the Petition referred

referred to them, as soon as they have heard the Evidence and Counsel on both Sides relative thereto, the Court where they sit shall be cleared, if they think proper, whilst the Commissioners consider thereof.

- 5 **27.** The Commissioners shall throughout their Investigation be attended by a Shorthand Writer appointed by the Speaker, and sworn by the Chairman of the Commissioners faithfully and truly to take down the Evidence given before the Commissioners, and from Day to Day, as Occasion requires, to write or cause the
10 same to be written in Words of full Length for the Use of the Commissioners.

Commissioners to be attended by a Shorthand Writer.

- 28.** The reasonable Expenses incurred by any Person in appearing to give Evidence before the Commissioners under this Act, according to the Scale allowed to Witnesses on the Trial of Civil
15 Actions at the Assizes, may be allowed to such Person by a Certificate under the Hand of the Commissioners, or One of them, and shall be deemed Part of the Expenses of the Investigation.

Expenses of Witnesses.

- 29.** The Provisions of the Seventh Section of the Act of the Session of the Twenty-sixth and Twenty-seventh Years of the Reign
20 of Her present Majesty, Chapter Twenty-nine, relating to the Examination and Indemnity of Witnesses, shall apply to any Witnesses appearing before the Election Commissioners appointed under this Act, in the same Manner as if they were Commissioners appointed in pursuance of the Act of the Session of the Fifteenth
25 and Sixteenth Years of the Reign of Her present Majesty, Chapter Fifty-seven.

Indemnity to Witnesses. 26 & 27 Vict. c. 29.

Costs.

- 30.** There shall be paid to the Returning Officer, in respect of the several Matters required in this Act to be done by him or under his Superintendence, such Fees as may from Time to Time
30 be fixed by the Speaker, and the Returning Officer may refuse to take any Proceedings under this Act, or allow anything to be done under his Superintendence, until the Fee due in respect of such Proceeding or Thing has been paid to him.

Fees of Returning Officer.

- 31.** The Expenses incurred by any Returning Officer in providing such Court and Accommodation as aforesaid, and in otherwise
35 carrying into effect the Provisions of this Act, so far as such Expenses are not provided for by Fees, shall be defrayed in the same Manner as if they were Expenses incurred by him in carrying into effect the Provisions of the Act of the Sixth Year of the

Expenses of Returning Officer.

Reign of Her present Majesty, Chapter Eighteen, and shall be defrayed accordingly.

Salaries of
Commissioners.

32. *The Salaries of the Commissioners and their Secretary, together with a reasonable Sum for Lodging and Travelling Expenses, shall be defrayed by the Treasury,* except in Cases where the Commissioners report that the Offences of Bribery, Treating, and undue Influence, or some One or more of the said Offences, have prevailed extensively in the County or Borough the Election for which they have been investigating, in which Case the Salaries and Expenses provided for by this Section shall be deemed to be Expenses incurred by the Returning Officer in carrying into effect the Provisions of this Act, and shall be defrayed accordingly. 5 10

General
Costs of
Petition.

33. All Costs, Charges, and Expenses of and incidental to the Presentation of a Petition under this Act, and to the Proceedings consequent thereon, with the Exception of such Costs, Charges, and Expenses as are by this Act otherwise provided for, shall be defrayed by the Parties to the Petition in such Manner and in such Proportions as the Commissioners may determine, regard being had to the Disallowance of any Costs, Charges, or Expenses which may, in the Opinion of the Commissioners, have been caused by vexatious Conduct, unfounded Allegations, or unfounded Objections on the Part either of the Petitioners or the Respondents, and regard being had to the Discouragement of any needless Expense by throwing the Burden of defraying the same on the Parties by whom it has been caused, whether such Parties are or not on the whole successful. 15 20 25

Commissioners to certify
Amount of
Costs due.

34. The Commissioners shall at the Conclusion of the Hearing of the Petition, or as soon afterwards as they conveniently can, estimate the Amount of Costs, Charges, and Expenses due to the several Parties to the Petition, and certify under their Hands the Parties by whom and the Parties to whom such Costs, Charges, and Expenses are to be paid. Such Costs, Charges, and Expenses shall be estimated as nearly as may be in manner pursued in the Courts of Equity where Costs are taxed as between Solicitor and Client, but it shall be lawful for the Commissioners to award a gross Sum by way of Costs to any Party for Costs, Charges, and Expenses, without considering or specifying the exact Items in respect of which such Sum is payable. The Commissioners, may in ascertaining the Amount of Costs due in any Case, avail themselves of the Services of the Clerk of the Peace, the Town Clerk, or of any other competent Person, and may award to such Clerk of the Peace, Town Clerk, or other Person, by way of Compensation, such Sum not exceeding 30 35 40

Pounds

Pounds as the Commissioners think fit, and the Sum so allowed shall be deemed Part of the general Costs of the Petition, and shall be defrayed accordingly.

5 **35.** The Certificate of the Commissioners directing any Sum to be paid by way of Costs by one Party to the Petition to another Party shall be conclusive Evidence of a Debt due from the one Party to the other of the Sum stated therein, and may be recovered accordingly.

Certificate of Commissioners to be conclusive.

10 **36.** If any Petitioner in an Election Petition presented under this Act neglect or refuse for the Space of *Six Months* after Demand to pay to the Respondent any Sum certified to be due to him for his Costs, Charges, and Expenses, and if such Neglect or Refusal be, within *Two Years* after such Demand, proved to the Satisfaction of the Returning Officer, in every
15 such Case every Person who has entered into a Recognizance relating to such Petition under the Provisions of this Act shall be held to have made default in his said Recognizance, and the Returning Officer shall thereupon certify such Recognizance to be forfeited, and the same shall be dealt with in manner provided by
20 the Act of the Third Year of the Reign of King George the Fourth, Chapter Forty-six.

Recognizance, when to be estreated, &c.

37. The Speaker may enlarge the Time for doing any Act or taking any Proceeding under this Act upon Payment of such Costs and on such Conditions as he thinks Justice requires.
25 The Speaker may also correct any Informality in any Petition, Recognizance, or other Document required by this Act in Cases where it is proved to his Satisfaction that no Injustice will be done to any Party by such Correction, on Payment of such Costs and subject to such Conditions as he thinks just.

Power of Speaker to make Amendments.

30 **38.** In reckoning Time for the Purposes of this Act, Sunday, Christmas Day, Good Friday, and any Day set apart for a Public Fast or Public Thanksgiving shall be excluded.

Calculation of Time.

39. The Sheriff may delegate to the Under Sheriff the doing or Allowance of any Act or Proceeding required by this Act to be done
35 by or under the Superintendence of the Sheriff.

Provisions as to Under-Sheriff.

40. Every Notice or other Document required to be served under this Act, where the Mode of Service is not herein-before specified, may be served personally, or by the same being sent by Post in a prepaid Letter to the last known Address of the Person

Service of Notices.

on whom the same is required to be served, within such Period as to admit of its being delivered within the Period prescribed (if any) for Notice to be given, and in proving such Service it will be sufficient to prove that the Document was properly directed, and that it was put into the Post Office, and it will be 5 deemed to have been served at the Time when it should have been delivered in the Course of Delivery by the Post.

Service made as aforesaid at the last known Address of a Person shall be sufficient notwithstanding such Person may be abroad.

Miscellaneous.

10

Penalty for
false swear-
ing, &c.

41. Every Person who, upon Examination upon Oath or Affirmation before any Commissioner under this Act, wilfully gives false Evidence shall be liable to the Penalties of Perjury.

No Stamps
on Recog-
nizances
or Affidavits.

42. No Recognizance entered into or Affidavit sworn under the Provisions of this Act shall require to be impressed with any Stamp. 15

Protection of
Commis-
sioners.

43. The Commissioners shall have such and the like Protection and Privileges, in case of any Action brought against them for any Act done or omitted to be done in the Execution of their Duty, as is now by Law given by any Act or Acts now or hereafter to be in force to Justices acting in execution of their Office. 20

Limitation
of Actions.

44. No Action shall be brought against any Commissioners appointed under this Act, or any other Person whomsoever, for any Thing done in the Execution of this Act, unless such Action be brought within *Six Calendar Months* next after the doing of such Thing. 25

Application of Act to Scotland.

Application
of Act to
Scotland.

45. This Act shall apply to Scotland, with the Modifications following; that is to say,

In addition to the Meanings assigned to the following Words in this Act, the Word "County" shall mean Stewartry, or any Com- 30
bination of Counties or of One County with Part of any other
County or Counties returning a Member to serve in Parliament,
and the Words "Returning Officer" shall mean the Sheriff
to whom the Writ for the Election which is the Subject of
the Investigation was addressed, according to the Provisions of the 35
Twenty-eighth Section of the Act passed in the Second and Third
Years of the Reign of His Majesty King William the Fourth,
Chapter Sixty-five, and relative Schedule, and the Provisions con-
tained in the Eleventh Section of the Act passed in the Seventh and
Eighth Years of the Reign last-mentioned, Chapter Seventy-eight. 40

The Word "Recognizance" shall mean a Bond of Caution, with
usual and necessary Clauses according to the Law of Scotland, and
shall

shall be executed by the Petitioner and his Cautioner or Surety, or Cautioners or Sureties, with the Solemnities usual in Scotland.

Any Act to be performed in England by or to the Attorney General shall in Scotland be performed by or to Hér Majesty's Advocate for Scotland.

The Scale of Expenses to be allowed to Witnesses called to bear Testimony in Scotland under the Authority of this Act shall be the Scale in use for the Time in the Court of Session in Scotland.

The Expenses incurred by any Returning Officer in Scotland under the Authority of this Act, in so far as not provided for by Fees *or payable by the Treasury*, shall be taken to be Part of the Expenses of Registration under the Registration Acts, and shall be assessed and levied accordingly.

"Courts of Equity," and "Superior Courts," shall, in so far as Scotland is concerned, mean the Court of Session in Scotland.

The "Registration Acts," in so far as Scotland is concerned, shall mean the Acts passed in the Nineteenth and Twentieth Years of the Reign of Her present Majesty, Chapter Fifty-eight, and in the Twenty-fourth and Twenty-fifth Years of the Reign, Chapter Eighty-three.

If any Petitioner in an Election Petition, presented under the Authority of this Act, neglect or refuse for the Space of Six Months after Demand to pay to the Respondent the Sum certified to be due to him for his Costs, Charges, and Expenses, and if such Neglect or Refusal be continued for *One Year* after the granting of such Certificate, it shall be competent to the Respondent to sue the Cautioners or Sureties of the Petitioner for the Sum due under said Certificate, and that by an Action before the Court of Session in Scotland.

No Person shall be qualified to be an Election Commissioner for Scotland unless he is a Member of the Faculty of Advocates of not less than Seven Years Standing, and in actual Practice, or is or has been a Judge of the Court of Session.

Application of Act to Ireland.

46. This Act shall apply to Ireland, with the Modifications following; that is to say,

No Person shall be qualified to be an Election Commissioner for Ireland unless he is a Barrister-at-Law of not less than Seven Years Standing, or is or has been a Judge of One of Her Majesty's Superior Courts, or is or has been Recorder of Dublin, or Judge of the Landed Estates Court, or an Assistant Barrister.

Application
of Act to
Ireland.

SCHEDULE referred to in the above Act.

FORM (A.)

Petition of Complaint.

To the Commons of the United Kingdom in Parliament assembled.

The humble Petition of *John Jones*, of _____, in the
County of _____ 5

Showeth as follows :—

1. Your Petitioner was a Candidate at the last Election of Members to serve in Parliament for the Borough of *Reigate*.

2. The Election took place on the _____ Day of _____.

3. At the said Election your Petitioner and *John Smith* of _____ 10
in the County of _____ were Candidates, and a Poll having
been demanded and taken the said *John Smith* was declared by
the Returning Officer of the said Borough to have the Majority of
Votes and to be elected, and was returned as a Member to serve
in Parliament for the said Borough. 15

4. At the said Election the said *John Smith* committed, by himself
and his Agents, the Offences of Bribery, Treating, and undue
Influence, and by reason thereof the Election of the said *John
Smith* was void; and your Petitioner had a Majority of the legal
Votes, and ought to have been returned as Member for the said 20
Borough.

Your Petitioner, therefore, prays that Election Commissioners
may be appointed to investigate the said Charges of Bribery,
Treating, and undue Influence, and to inquire whether or
not your Petitioner had the Majority of legal Votes. And 25
your Petitioner prays that, in the event of the Commis-
sioners reporting that the said *John Smith* committed at the
said Election, by himself or his Agents, the said Offences of
Bribery, Treating, or undue Influence, or any of them, and
that your Petitioner had the Majority of legal Votes, the 30
House will declare the Election of the said *John Smith* to
be void, and that your Petitioner was duly elected, and
ought to have been returned as a Member to serve in
Parliament instead of the said *John Smith*.

FORM (B.)

Recognizance with Affidavit annexed.

The Corrupt Practices at Elections (Trial) Act, 1867.

Be it remembered, that on the Day of
 5 186 , before me, *A.B.*, Esq., Returning Officer of the Borough of
 [or One of Her Majesty's Justices of the Peace for the
 County of], came of No. (*1*) Street, in
 the City of , Merchant (*a*), and acknowledged himself
 [or severally acknowledged themselves] to owe to our Sovereign
 10 Lady the Queen the Sum of One thousand Pounds, [or the
 following Sums,] (that is to say,) the said *C.D.* the Sum of
 the said *E.F.* the Sum of Pounds,
 the said *G.H.* the Sum of Pounds, and the said *I.K.*
 the Sum of Pounds, to be levied on his [or their
 15 respective] Goods and Chattels, Lands and Tenements, to the
 Use of our said Sovereign Lady the Queen, Her Heirs and
 Successors.

The Condition of this Recognizance is, that if [*here insert the
 Name of the Petitioner, and if more than One add, or any of them,*]
 20 shall well and truly pay all Costs, Charges, and Expenses in respect
 of the Election Petition signed by him [or them] relating to the
 [*here insert the Name of the Borough or County*] which may
 become payable by the said Petitioner [or Petitioners] under the
 above-mentioned Act, then this Recognizance to be void, otherwise
 25 to be of full Force and Effect.

*C.D.**E.F.**G.H.**I.K.*

30 *N.B.—If sworn before a Justice it must be certified under his
 Hand, which may be endorsed on the Recognizance in the following
 Form :*

I hereby certify that the within-written Recognizance was duly
 entered into, and that the Affidavit [or Affidavits] hereunto
 35 annexed were duly sworn by the said *C.D.*, &c., &c., before me, at
 in the County of the Day and
 Year above written.

[*L.M.*]

40 A Justice of the Peace acting in for
 the said of .

(a) The Description must be such as to identify him easily.

[119.] +

C

Affidavit of the Sufficiency of Sureties.

C.D. of No. [1] Street in the City of
 Merchant, E.F. of in the County of
 Gentleman, G.H. of in the City of
 Parliamentary Agent, and I.K. of in the County of 5
 Esquire [*as severally described in the Recognizance*], severally make Oath and say, and first this Deponent C.D. for himself saith, that he is seised [*or possessed*] of Real [*or Personal*] Estate, above what will satisfy his Debts, of the clear Value of [*Two hundred and fifty*] Pounds : And this Deponent E.F. 10 for himself saith that he is seised, &c. [*as above*].
 Sworn at this Day of
 18, before (a), &c.

C.D.
 E.F. 15
 G.H.
 I.K.

[*If sworn before a Justice it must be certified under his Hand*].

(a) It must be sworn before the same Person who takes the Recognizance.

FORM (C.).

20

Report of Commissioners.

In the Matter of the Corrupt Practices at Elections Trial Act,
 1867, and in the Matter of the Petition of *John Jones* of
 in the County of

We A.B., C.D., and E.F., the Election Commissioners appointed to 25
 investigate the Charges of Bribery, Treating, and undue Influence
 made by the said Petition against *John Smith* of
 in the County of the Respon-
 dent to the said Petition, and to inquire whether the said *John*
Jones had or had not a Majority of legal Votes at the Election held 30
 for the Borough of *Totness* on the Day of report
 as follows:

- 1st. The said *John Smith* was guilty, by his Agents, but not by
 himself, of the Offence of Bribery, but that he was not guilty
 of the Offence of Treating or undue Influence. 35
- 2d. The said *John Jones* had a Majority of legal Votes at the
 said Election, and ought, in our Opinion, to be returned in the
 Place of the said *John Smith*.

Corrupt Practices at Elections.

A

B I L L

To provide for the more effectual Prevention of corrupt Practices and undue Influence at Parliamentary Elections.

(Prepared and brought in by
Mr. Chancellor of the Exchequer, Mr. Secretary
Walpole, and Mr. Hunt.)

Ordered, by The House of Commons, to be Printed,
9 April 1867.

[Bill 119.]⁺
Under 3 oz.



A

B I L L

TO

Enable the Standing Counsel to the Secretary of State in Council of India to sit in the House of Commons.

WHEREAS it is expedient that the Person holding the Office of Standing Counsel to the Secretary of State in Council of India shall not be disqualified from being elected or sitting or voting as a Member of the House of Commons :

5 Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same :

1. That the Office of Standing Counsel to the Secretary of State in Council of India shall not be deemed such an Office as shall render the Person holding such Office incapable of being elected or of sitting or voting as a Member of the House of Commons, or as shall avoid his Election if returned, or render him liable to any Penalty for sitting or voting in Parliament.

Standing
Counsel to
Secretary of
India not
ineligible for
Election to
House of
Commons.

Counsel to the Secretary
of State for India.

A

B I L L

To enable the Standing Counsel to the
Secretary of State in Council of India
to sit in the House of Commons.

(Prepared and brought in by
Mr. Selwyn, Mr. Baeton, and Mr. Coleridge.)

Ordered, by The House of Commons, to be Printed,
22 February 1867.

[Bill 51.]

Under 1 oz.



A

B I L L

INTITULED

An Act to amend the Acts relating to the Jurisdiction of the County Courts.

[Note.—*The Words printed in Red Ink are proposed to be inserted in Committee.*]

WHEREAS it is desirable to amend the Acts relating to Preamble.
the Jurisdiction of the County Courts :

Be it enacted by the Queen's most Excellent Majesty,
by and with the Advice and Consent of the Lords Spiritual and
5 Temporal, and Commons, in this present Parliament assembled, and
by the Authority of the same, as follows :

1. A Complaint may be entered in the County Court within the District of which the Defendant or One of the Defendants shall dwell or carry on his Business at the Time of bringing the Action or Suit, or it may be entered, by Leave of the Judge or Registrar, in the County Court within the District of which the Defendant or One of the Defendants dwelt or carried on Business, at any Time within Six Calendar Months next before the Time of Action or Suit brought, or, with the like Leave, in the County Court in the District
10 of which the Cause of Action or Suit wholly or in part arose.

Where Summons may issue.

2. In any Action brought in a County Court for the Price or Value of Goods or Chattels sold and delivered to the Defendant to be dealt with in the way of his Trade, Profession, or Calling, the Plaintiff may, at his Option, cause to be issued a Summons

In certain Actions in County Courts Plaintiff may issue Summons, and if De-

[Bill 212.]

A

in

defendant shall not give Notice of Intention to defend, Judgment may be entered up. in the ordinary Form, or (upon filing an Affidavit to the Effect set forth in the Form given in Schedule (A.) to this Act,) in the Form contained in the Schedule (B.) to this Act, and if such last-mentioned Summons be issued it shall be personally served on the Defendant by the Bailiff of the Court, or at the Option of the Plaintiff by the Plaintiff, his Attorney, or by some Clerk or Servant in the permanent Employ of the Plaintiff, his Attorney or Agent, Twelve clear Days at the least before the Return Day thereof, and then, if the Defendant shall not, at least Six clear Days before such Return Day, give Notice in Writing, signed by himself, his Attorney or Agent, to the Registrar of the Court from which the Summons issued, of his Intention to defend, the Plaintiff may, within Two Months after such Return Day, without giving any Proof of his Claim, have, upon Proof by Affidavit of the Service of the Summons, Judgment entered up against the Defendant for the Amount of his Claim and Costs, such Costs to be taxed by the Registrar; and the Order upon such Judgment shall be for Payment forthwith, or at such Time or Times, and by such Instalments, if any, as the Plaintiff or his Attorney or Agent shall in Writing have consented to take at the Time of the Entry of the Plaint: Provided that where the Defendant shall give such Notice as above specified, the Action shall be heard in the ordinary Course; but in any Event the Registrar shall, immediately after the last Day for giving such Notice, send a Letter to the Plaintiff by Post, stating therein whether the Defendant has or has not given Notice of his Intention to defend.

Proceedings commenced in a Metropolitan County Court to be continued therein if Defendant resides in the Districts of One of such Courts.

3. Where an Action is brought in any of the County Courts mentioned in the Section numbered Eighteen of the Act passed in the Session of Parliament holden in the Nineteenth and Twentieth Years of the Reign of Her Majesty, Chapter one hundred and eight, all subsequent Proceedings in such Action shall be taken and had in such Court, if the Party against whom the Proceeding is taken or had shall reside or carry on Business within the District of any of such Courts or within the City of London. An Action may be commenced, and all subsequent Proceedings taken and had, in the Court held under the Provisions of "The London (City) Small Debts Extension Act, 1852," by a Plaintiff residing or carrying on Business within the City of London, against a Defendant who resides or carries on Business within the District of any of such Courts; and an Action may be commenced, and all subsequent Proceedings taken and had, in any of such County Courts by a Plaintiff residing or carrying on Business within the District of any such County Court, against a Defendant who resides or carries on Business within the City of London.

4. No

4. No Action shall henceforth be brought or be maintainable in any Court to recover any Debt or Sum of Money alleged to be due in respect of the Sale of any Ale, Porter, Beer, Cider, or Perry which after the Commencement of this Act was consumed on the
 5 Premises where sold or supplied, or in respect of any Money or Goods lent or supplied, or of any Security given, for, in, or towards the obtaining of any such Ale, Porter, Beer, Cider, or Perry.

No Action for Beer, &c. consumed on the Premises to be brought.

5. If in any Action commenced after the passing of this Act in any of Her Majesty's Superior Courts of Record the Plaintiff
 10 shall recover a Sum not exceeding Twenty Pounds if the Action is founded on Contract, or Ten Pounds if founded on Tort, whether by Verdict, Judgment by Default, or on Demurrer, or otherwise, he shall not be entitled to any Costs of Suit unless the Judge certify on the Record that there was sufficient Reason for bringing such
 15 Action in such Superior Court, or unless the Court or a Judge at Chambers shall by Rule or Order allow such Costs.

Costs not recoverable in Superior Courts where less than 20*l.* on Contract or 10*l.* on Tort.

6. The Section numbered Seventeen of the Act passed in the Session of Parliament holden in the Third and Fourth Years of the Reign of His late Majesty, King William the Fourth, Chapter
 20 Forty-two, which enables a Superior Court, or a Judge thereof, to direct Issues to be tried before a Sheriff or a Judge of an inferior Court of Record, where the Sum sought to be recovered does not exceed Twenty Pounds, and the Court or Judge is satisfied that the Trial will not involve any difficult Question of Fact or Law, shall
 25 be and the same is hereby repealed.

Repeal of s. 17. of 3 & 4 W. 4. c. 42. authorizing the Trial of Issues before a Sheriff where Sum claimed does not exceed 20*l.*

7. Where in any Action of Contract brought or commenced in any of Her Majesty's Superior Courts of Common Law the Claim endorsed on the Writ does not exceed Fifty Pounds, or where such Claim, though it originally exceeded Fifty Pounds, is reduced by Payment,
 30 an admitted Set-off, or otherwise, to a Sum not exceeding Fifty Pounds, it shall be lawful for the Defendant in the Action, within Eight Days from the Day upon which the Writ shall have been served, upon him, if the whole or Part of the Demand of the Plaintiff be contested, to apply to a Judge at Chambers for a Summons to the
 35 Plaintiff to show Cause why such Action should not be tried in the County Court or One of the County Courts in which the Action might have been commenced; and on the Hearing of such Summons the Judge shall, unless there be good Cause to the contrary, order such Action to be tried accordingly, and thereupon the
 40 Plaintiff shall lodge the original Writ and the Order with the Registrar of the County Court mentioned in the Order, who shall appoint a Day for the Hearing of the Cause, Notice whereof

In certain Cases Judge of Superior Courts may order Cause to be tried in County Court.

shall be sent, by Post or otherwise, by the Registrar, to both Parties or their Attorneys, and the Cause and all Proceedings therein shall be heard and taken in such County Court, as if the Action had been originally commenced in such County Court: And the Costs of the Parties in respect of Proceedings subsequent to the Order of the Judge of the Superior Court shall be allowed according to the Scale of Costs in use in the County Courts, and the Costs of the Proceedings previously had in the Superior Court shall be allowed according to the Scale in use in such latter Court.

Proceedings in Equity may be transferred to County Courts which might have commenced therein.

8. Where any Suit or Proceeding shall be pending in the High Court of Chancery, which Suit or Proceeding might have been commenced in a County Court, it shall be lawful for any of the Parties thereto to apply at Chambers to the Judge to whose Court the said Suit or Proceeding shall be attached, to have the same transferred to the County Court or One of the County Courts in which the same might have been commenced, and such Judge shall have Power upon such Application, or without such Application, if he shall see fit, to make an Order for such Transfer, and thereupon such Suit or Proceeding shall be carried on in the County Court to which the same shall be ordered to be transferred.

Suits in which Jurisdiction under 28 & 29 Vict. c. 99. may be exercised.

9. The Jurisdiction which is given by the Act passed in the Session holden in the Twenty-eighth and Twenty-ninth Years of the Reign of Her Majesty, intituled "An Act to confer on the County Courts a limited Jurisdiction in Equity," so far as relates to Cases coming within the Fourth Head of the First Section of the said Act may, from and after the passing of this Act, be exercised in all Suits for specific Performance of or for the reforming, delivering up, or cancelling of any Agreement for the Sale, Purchase, or Lease of any Property where, in the Case of a Sale or Purchase, the Purchase Money, or in case of a Lease the Value of the Property, shall not exceed Five hundred Pounds.

Actions for Malicious Prosecution, &c. brought in Superior Courts may be remitted to County Court by Judge.

10. It shall be lawful for any Person against whom an Action for Malicious Prosecution, illegal Arrest, illegal Distress, Assault, false Imprisonment, Libel, Slander, Seduction, or other Action of Tort may be brought in a Superior Court, to make an Affidavit that the Plaintiff has no visible Means of paying the Costs of the Defendant should a Verdict be not found for the Plaintiff, and thereupon a Judge of the Court in which the Action is brought shall have Power to make an Order that unless the Plaintiff shall, within a Time to be therein mentioned, give full Security for the Defendant's Costs, to the Satisfaction of One of the Masters of the said Court, all Proceedings in the Action shall be stayed, or that in the event of the Plaintiff being

being unable or unwilling to give such Security that the Cause be remitted for Trial before a County Court to be therein named; and thereupon the Plaintiff shall lodge the original Writ and the Order with the Registrar of such County Court, who shall appoint a
 5 Day for the Hearing of the Cause, Notice whereof shall be sent by Post or otherwise by the Registrar to both Parties or their Attorneys; and the County Court so named shall have all the same Powers and Jurisdiction with respect to the Cause as if both Parties had agreed, by a Memorandum signed by them, that the said County Court
 10 should have Power to try the said Action, and the same had been commenced by Plaintiff in the said County Court; and the Costs of the Parties in respect of the Proceedings subsequent to the Order of the Judge of the Superior Court shall be allowed according to the Scale of Costs in use in the County Courts, and the Costs of the
 15 Proceedings in the Superior Court shall be allowed according to the Scale in use in such latter Court.

11. All Actions of Ejectment where neither the Value of the Lands, Tenements, or Hereditaments, nor the Rent payable in respect thereof, shall exceed the Sum of Twenty Pounds by the
 20 Year may be brought and prosecuted in the County Court of the District in which the Lands, Tenements, or Hereditaments are situate.

Action of Ejectment may be brought where annual Value of Property does not exceed 20*l*.

12. The County Courts shall have Jurisdiction to try any Action in which the Title to any corporeal or incorporeal Hereditaments
 25 shall come in question where neither the Value of the Lands, Tenements, or Hereditaments in dispute, nor the Rent payable in respect thereof, shall exceed the Sum of Twenty Pounds by the Year, or in case of an Easement or Licence where neither the Value nor reserved Rent of the Lands, Tenements, or Hereditaments in respect
 30 of which the Easement or Licence is claimed, or on, through, over, or under which such Easement or Licence is claimed, shall exceed the Sum of Twenty Pounds by the Year: Provided that the Defendant in any such Action of Ejectment, or his Landlord, may, within
 35 One Month from the Day of Service of the Writ, apply to a Judge at Chambers for a Summons to the Plaintiff to show Cause why such Action should not be tried in One of the Superior Courts on the Ground that the Title to Lands or Hereditaments of greater annual Value than Twenty Pounds would be affected by the Decision in such Action; and on the Hearing of such Summons the Judge, if
 40 satisfied that the Title to other Lands would be so affected, may order such Action to be tried in One of the Superior Courts, and thereupon all Proceedings in the County Court in such Action shall be discontinued.

Court may try Cases where Title comes in question where neither Value nor Rent of Property exceeds 20*l*.

Appeal in
Actions of
Ejectment
and in Ac-
tions where
Title comes
in question,
and by Leave
of the Judge,
allowed in all
Actions in
which it is
not now
allowed.

13. An Appeal from the Decision of a County Court, on the same Grounds and subject to the same Conditions as are provided by Section Fourteen of the Act of the Thirteenth and Fourteenth Years of the Reign of Her present Majesty, Chapter Sixty-one, shall be allowed in all Actions of Ejectment, and in all Actions 5
in which the Title to any corporeal or incorporeal Hereditament shall have come in question, and with the Leave of the Judge, an Appeal shall be allowed in Actions in which an Appeal is not now allowed, if the Judge shall think it reasonable and proper that such Appeal should be allowed. 10

Court may
award Costs
where Cause
is struck out
for Want of
Jurisdiction.

14. Whenever an Action or Suit is brought in a County Court which the Court has no Jurisdiction to try, the Judge shall order the Cause to be struck out, and shall, unless the Parties consent to the Court having Jurisdiction to try the same, have Power to award Costs in the same Manner, to the same Extent, and recoverable in 15
the same Manner, as if the Court had Jurisdiction in the Matter of such Plaintiff, and the Plaintiff had not appeared, or had appeared and failed to prove his Demand.

Scale of
Costs to be
framed by
the Judges.

15. The County Court Judges appointed or to be appointed by the Lord Chancellor from Time to Time to frame Rules and Orders 20
for regulating the Practice of the Courts and Forms of Proceeding therein under the Thirty-second Section of "The County Courts Act, 1856," shall be empowered to frame a Scale of Costs and Charges to be paid to Counsel and Attorneys with respect to all Proceedings which are herein authorized to be taken, or with 25
respect to Proceedings in Actions for the Recovery of Tenements, or in Actions of Replevin, and from Time to Time to amend such Scale; and such Scale or amended Scale, certified under the Hands of such Judges, or any Three or more of them, shall be submitted to the Lord Chancellor, who from Time to Time may allow or disallow 30
or alter the same, and the Scale or amended Scale so allowed or altered shall, from a Day to be named by the Lord Chancellor, be in force in every County Court.

Proceedings
where De-
fendant does
not appear.

16. If in any Action founded on Contract a Defendant shall not appear at the Hearing, either in Person or by some Person duly 35
authorized on his Behalf, and no sufficient Excuse for the Defendant's Absence shall be shown, the Registrar may, by Leave of the Judge, upon due Proof of the Service of the Summons and of the Debt being due and owing, enter up Judgment for the Plaintiff; and such Judgment shall be as valid as if both Parties had attended the 40
Court; but the Judgment, and any Execution thereon, may be set aside,

aside, and a new Trial granted, upon such Terms, if any, as the Judge may think fit to require.

17. Where a Defendant appearing at the Hearing either in Person or by some Person duly authorized to appear for him admits the Claim, the Registrar may, by Leave of the Judge, settle the Terms and Conditions upon which it is to be paid, and enter up Judgment accordingly as a Judgment of the Court.

Where Defendant appears and admits the Claim.

18. Wherever in Sections Forty-eight and Fifty of an Act passed in the Session of Parliament holden in the Ninth and Tenth Years of the Reign of Her present Majesty, Chapter Ninety-five, the Words "One of Her Majesty's Principal Secretaries of State" occur, the Words "the Commissioners of Her Majesty's Treasury" shall be read in lieu thereof; and all the Powers therein given to One of Her Majesty's Principal Secretaries of State shall hereafter be in the Commissioners of Her Majesty's Treasury, and shall be exercised by them; and all Papers and Documents relating to the County Courts in the Custody of any such Secretary of State shall be transferred into the Custody of the said Commissioners.

Approval of Commissioners of the Treasury substituted for Approval of a Secretary of State in Sections 48 and 50 of 9 & 10 Vict. c. 95.

19. Wherever in Section Fifty-six of an Act passed in the Session of Parliament holden in the Ninth and Tenth Years of the Reign of Her present Majesty, Chapter Ninety-five, the Words "One of Her Majesty's Principal Secretaries of State" occur, the Words "the Lord Chancellor" shall be read in lieu thereof, and the Power to be therein exercised by One of Her Majesty's Principal Secretaries of State shall hereafter be in the Lord Chancellor, and shall be exercised by him.

Lord Chancellor to exercise Power given to a Secretary of State by s. 56 of 9 & 10 Vict. c. 95.

20. Any County Court Judge shall be capable of acting for any other County Court Judge in or without the Districts presided over by such Judge, and the Deputy of a County Court Judge or Registrar duly appointed, shall have all the Powers and Privileges and perform all the Duties of the Judge or Registrar for whom he shall have been so appointed, which have been given or shall be given to such Judge or Registrar by any Act passed or to be passed, anything to the contrary notwithstanding; and where, in the Absence of a Judge, a Deputy of such Judge shall, from Illness or otherwise, be incapable of performing his Duties as such Deputy, it shall be lawful for the Lord Chancellor to appoint another Person, duly qualified, to be the Deputy of such Judge.

Judges to be auxiliary to one another, and Deputy of Judge or Registrar to have all the Powers of his Principal.

21. Every Registrar who may be invested with the Powers and Authorities of a High Bailiff under the Provisions of "The County

Registrars who may act as High Bailiffs under 29 & 30 Vict. c. 14. to have all the

Powers, &c.
possessed by
the Officer
to whose
Duties they
succeed.

Bailiffs to
serve any
Process di-
rected to be
served by
High Bailiff.

On Death
of a joint
Registrar
Survivor
to be sole
Registrar.

Trustees
may pay
Trust Monies
or transfer
Stock and
Securities
into the
Court.

Extension of
Powers
given by
12 & 13 Vict.
c. 74. to
Court of
Chancery to
County
Courts.

Courts Act, 1866," shall also be invested with the Powers and Authorities possessed by the High Bailiff to the Performance of whose Duties he may succeed.

22. Every Bailiff duly appointed by a High Bailiff or a Registrar may serve or execute any Process which by any Act passed or to 5 be passed is directed to be served or executed by a High Bailiff, unless otherwise specially provided against therein.

23. Upon the Death, Resignation, or Removal of any Person being joint Registrar with another of a County Court, no other Person shall be appointed to such Office of Registrar, jointly or 10 otherwise, until both the Persons holding the joint Office shall have died, been removed, or resigned, unless the Lord Chancellor shall otherwise order.

24. Any Monies, Annuities, Stocks, or Securities vested in any Persons as Trustees, Executors, Administrators, or otherwise, upon 15 Trusts within the Meaning of an Act passed in the Session of Parliament holden in the Tenth and Eleventh Years of the Reign of Her present Majesty, Chapter Ninety-six, "for better securing " Trust Funds, and for the Relief of Trustees," may, where the same does not exceed in Amount or Value the Sum of Five hundred 20 Pounds, be paid, transferred, or deposited by such Trustees or other Persons, or the major Part of them, to or with the Registrar of the County Court within the District of which such Persons or any of them shall reside, in trust to attend the Orders of the Court, on their filing with such Registrar an Affidavit shortly describing the 25 Instrument creating the Trust according to the best of their Knowledge, and in such Case the Receipt of the Registrar for the Money so paid, or, in the Case of Stocks or Securities, the Certificate of the proper Officer of the Transfer or Deposit of such Stocks or Securities, shall be a sufficient Discharge to such Persons for the Money so 30 paid, or the Stocks or Securities so transferred or deposited; provided that in the Case of Stocks and Securities the Transfer shall be made to the Registrar and Treasurer, or some other Person to be named by any Rule of Practice.

25. For the Purposes of the last Section all the Powers and 35 Authorities given to the Court of Chancery by the Act passed in the Session of Parliament holden in the Twelfth and Thirteenth Years of the Reign of Her present Majesty, Chapter Seventy-four, "for the further Relief of Trustees," shall be possessed and exercised by the County Courts, and any Order made by virtue of 40 such Powers and Authorities shall fully protect and indemnify all Persons acting under or in pursuance of such Order.

26. Where

26. Where any Money shall be paid into a County Court under the Provisions of this Act, or of the County Courts Act, 1865, or under any Act which may be hereafter passed amending the same, it shall be lawful for the Registrar, by Order of the Court, to invest
 5 in his Name as Registrar such Money, or any Part thereof, in a Post Office Savings Bank established in the Town in which the Court is held, without Restriction as to Amount, and without the Declaration required of a Depositor in a Savings Bank; and no Part of any Money so invested shall be paid out to any Registrar,
 10 except upon an Authority addressed to the Postmaster General by the Commissioners of Her Majesty's Treasury.

Monies paid into a County Court under the County Courts Equitable Jurisdiction Act may be invested in a Post Office Savings Bank.

27. Any Proceeding taken in the County Courts under "The County Courts Act, 1865," conferring an equitable Jurisdiction on such Courts, may, if so directed by Rules and Orders to be made
 15 under such Act, be commenced by Summons.

Proceedings in Equity may be commenced by Summons.

28. From and after the passing of this Act no Action or Suit which can now be brought in any County Court shall henceforth be commenced or be maintainable in any Hundred, Manor, Honor, or Wapentake Court, Court Leet, or Court Baron, or other
 20 inferior Court not being a Court of Record; and every Person who is legally entitled to any Franchise or Office in or in respect of any of the said Courts, the Value of which shall be diminished or taken away by the Operation of this Act, shall be entitled to make a Claim for Compensation to the Commissioners of Her Majesty's
 25 Treasury within Twelve Months after the passing of this Act; and the said Commissioners, in such Manner as they shall think fit, may inquire what was the Nature of the Franchise or Office, and what was the Tenure thereof, and what were the lawful Fees and Emoluments in respect of which such Compensation should be allowed; and the
 30 said Commissioners in each Case shall award such Compensation as they shall think just, upon consideration of the special Circumstances of each Case: Provided, that if any Person so compensated accepts any public Employment, he shall, during the Continuance of such Employment, receive only so much (if any) of Compensation
 35 as, with the Remuneration for that Employment, will equal such Compensation : and the several Compensations herein-before granted shall be paid out of Monies to be voted by Parliament, and the Commissioners of Her Majesty's Treasury of the said United Kingdom are hereby authorized to pay the same accordingly.

No Action or Suit to be commenced in any Hundred, Manor, Wapentake, or other inferior Court.

40 29. The Section numbered Sixteen of the Act passed in the Session of Parliament holden in the Third and Fourth Years of the Reign of Her present Majesty, Chapter One hundred and ten, to
 [212.] B amend

Repeal of so much of 3 & 4 Vict. c. 110. as enables

Loans to be recovered before Justices. amend the Laws relating to Loan Societies, shall, in so far as it enables Loans to be recoverable before a Justice of the Peace, be and the same is hereby repealed.

Repeal of Enactments in Schedule (C.)

30. The several Enactments specified in Schedule (C.) to this Act are hereby repealed. 5

This Act and other County Courts Acts to be construed together.

31. This Act, and the several Acts specified in Schedule (D.) to this Act, shall, except such Provisions of the same Acts respectively as are hereby repealed, be construed together as One Act, and may be respectively cited for all Purposes by the Short Titles respectively given to them in such Schedule, and this Act may 10 be cited for all Purposes as "The County Courts Act, 1867."

Meaning of the Words "County Court" in this and future Acts, and shall include the City of London Court.

32. The Words "County Court," when used in this Act or in any future Act, shall mean a Court holden by virtue of the Act passed in the Session of Parliament holden in the Ninth and Tenth Years of the Reign of Her present Majesty, Chapter Ninety-five, 15 "for the more easy Recovery of Small Debts and Demands in "England," and shall mean and include the Courts held by virtue of "The London (City) Small Debts Extension Act, 1852," unless otherwise provided, and such Courts shall be holden by the Name of "The City of London Court," and shall be a Court of Record, 20 and its Decisions shall be subject to Appeal in the same Way and on the same Conditions as the Decisions of a County Court are subject for the Time being. The Rules and Orders in force for the Time being for regulating the Practice of and Costs in the County Courts, and Forms of Proceedings therein, shall be in force in "The City 25 of London Court," to the Exclusion of any Rules and Orders now in force in that Court: Provided that nothing in this Act, or in any of the Acts specified in Schedule (D.) to this Act, shall take away, lessen, or diminish any of the Powers, Rights, or Privileges of the Judge of the said Court, or the Authority of the Mayor, 30 Aldermen, and Commons of the City of London in Common Council assembled in relation to such Court, or to the Judge or Officers thereof, or to the Fees taken therein, as such Powers or Authority existed previously to the passing of this Act.

Operation of Act.

33. This Act shall come into operation on the First Day of 35 October next after the passing hereof.

SCHEDULES.

SCHEDULE (A.)

I, A.B., of, &c. [or Agent for C.D.] make oath and say, that E.F. is indebted to me [or to the said C.D.] in the Sum of
5 And I further say, that the
were sold and delivered to the said
E.F. to be dealt with in the way of his Trade of a

Sworn at, &c. A.B.

10 SCHEDULE (B.)

Summons to obtain Judgment by Default on Personal Service.

No. [of Plaintiff].
In the [Title of Court issuing Summons].
[Seal.] Between A.B., Plaintiff,
and
15 C.D., Defendant.

[Name, Description, and Address of Defendant.]

TAKE NOTICE, That, unless at least Six clear Days before the [Day of
Appearance to Summons] you return to the Registrar of this Court at [Place
20 of Office] the Notice given below, dated and signed by yourself, or your
Attorney or your Agent, you will not afterwards be allowed to make any
Defence to the Claim which [Name, Description,
and Address of Plaintiff] makes on you, as per
Margin, the Particulars of which are hereunto
25 annexed; but the Plaintiff may, without giving
any Proof in support of such Claim, proceed to
Judgment and Execution. If you return such
Notice to the Registrar within the Time specified,
you must appear at a County Court to be holden

30 at on the Day of 186 , at the Hour
[212.] B 2 of

	£	s.	d.
Claim	-		
Fee for Plaintiff	-		
Attorney's Costs (where payable)	-		
Total Amount of Debts and Costs	}		

of _____ in the _____ noon, to answer the above Claim, which will be
heard on that Day.

Dated this _____ Day of _____ 186 .

Registrar of the Court.

See below.

5

Notice of Intention to defend or to object to the Jurisdiction of the Court.

No. [*of Plaintiff*].

In the [*Title of Court*].

A.B. v. C.D.

I intend to defend this Cause [*or to object to the Jurisdiction of the* 10
Court] on the Ground or Grounds [*here state the Ground or Grounds*].

Dated this _____ Day of _____ 186 .

(*) Defendant.

[*To be endorsed on the Summons.*]

If you pay the Debt and Costs, as per Margin on the other Side, into the 15
Registrar's Office, before the Day of Hearing, and without returning the
Notice of Intention to defend, you will avoid further Costs.

If you do not return the Notice of Intention to defend, but allow Judgment
against you by Default, you will *save Half the Hearing Fee*, and the Order
upon such Judgment will be to pay the Debt and Costs forthwith [*or by* 20
Instalments, to be specified as in Plaintiff's written Consent].

If you admit a Part only of the Claim, you must return the Notice of
Intention to defend within the specified Time; and you may, by paying into
the Registrar's Office the Amount so admitted, together with Costs pro-
portionate to the Amount you pay in, Six clear Days before the Day of 25
Hearing, avoid further Costs, unless the Plaintiff at the Hearing shall prove
a Claim against you exceeding the Sum so paid.

If you intend to rely on a Set-off, Infancy, Coverture, a Statute of Limit-
ations, or a Discharge under a Bankrupt or Insolvent Act, as a Defence, you
must, in addition to the Notice of Intention to defend, give to the Registrar 30
Notice of such special Defence Six clear Days before the Day of Hearing;
and such last-mentioned Notice must contain the Particulars required by the
Rules of the Court; and you must deliver to the Registrar as many Copies
of such Notice as there are Plaintiffs, and an additional Copy for the Use of
the Court. If your Defence be a Set-off, you must, with the Notice thereof, 35
also deliver to the Registrar a Statement of the Particulars thereof. If your
Defence be a Tender, you must pay into Court, before or at the Hearing, the
Amount tendered.

If you give such Notice of Intention to defend within the Time specified,
you may have the Case tried by a Jury, on giving Notice in Writing at the 40
Registrar's Office, Three clear Days before the Hearing, and on Payment of
Five Shillings for the Use of such Jury.

(*) Here must be signed the Name of Defendant, or of his Attorney or Agent, and in either of the
last Two Cases the Words "Attorney for," or "Agent for," must be added.

Summonses for Witnesses and the Production of Documents may be obtained at the Office of the Registrar of this Court.

Hours of Attendance at the Office of the Registrar of this Court at [Place of Office] from Ten till Four.

- 5 This Summons must be served *personally* on the Defendant Twelve clear Days before the Day appointed for the Hearing.

SCHEDULE (C.)

	Reference to Act.	Title of Act.	Extent of Repeal.
10	9 & 10 Vict. c. 95. -	An Act for the more easy Recovery of Small Debts and Demands in England.	The whole of the Sections numbered respectively Sixty, One hundred and twenty-eight, and One hundred and twenty-nine.
15	13 & 14 Vict. c. 61. -	An Act to extend the Act for the more easy Recovery of Small Debts and Demands in England, and to amend the same.	The whole of the Sections numbered respectively Eleven and Twelve.
20	15 & 16 Vict. c. 54. -	An Act further to facilitate and arrange Proceedings in the County Courts.	The whole of Section Four.
25	15 & 16 Vict. c. lxxvii.	An Act for the more easy Recovery of Small Debts and Demands in the City of London and Liberties thereof.	The whole of the Sections numbered respectively One hundred and eighteen, One hundred and nineteen, One hundred and twenty, One hundred and twenty-one, and One hundred and twenty-two.
30	19 & 20 Vict. c. 108. -	An Act to amend the Acts relating to County Courts.	The whole of the Sections numbered respectively Fifteen and Thirty.
35	23 & 24 Vict. c. 126. -	An Act for the further Amendment of the Process, Practice, and Mode of Pleading in and enlarging the Jurisdiction of the Superior Courts of Common Law at Westminster.	The whole of Section Thirty-four.
40			
45	28 & 29 Vict. c. 99. -	An Act to confer on the County Courts a limited Jurisdiction in Equity.	The Fourth Head of Suits and Matters mentioned in the First Section.

SCHEDULE (D.)

Acts.	Short Title.	
9 & 10 Vict. c. 95. An Act for the more easy Recovery of Small Debts and Demands in England.	"The County Courts Act, 1846."	5
12 & 13 Vict. c. 101. An Act to amend the Act for the more easy Recovery of Small Debts and Demands in England, and to abolish certain inferior Courts of Record.	"The County Courts Act, 1849."	
13 & 14 Vict. c. 61. An Act to extend the Act for the more easy Recovery of Small Debts and Demands in England.	"The County Courts Act, 1850."	10
15 & 16 Vict. c. 54. An Act further to facilitate and arrange Proceedings in the County Courts.	"The County Courts Act, 1852."	15
19 & 20 Vict. c. 108. An Act to amend the Acts relating to the County Courts.	"The County Courts Act, 1856."	20
21 & 22 Vict. c. 74. An Act for the Re-arrangement of the Districts of the County Courts among the Judges thereof.	"The County Courts Act, 1858."	
22 & 23 Vict. c. 57. An Act limiting the Power of Imprisonment for Small Debts exercised by the County Court Judges.	"The County Courts Act, 1859."	25
28 & 29 Vict. c. 99. An Act to confer on the County Courts a limited Jurisdiction in Equity.	"The County Courts Act, 1865."	30
29 & 30 Vict. c. 14. An Act for the Abolition of the Offices of Treasurer and of High Bailiffs of County Courts as Vacancies shall occur, and to provide for the Payment of future Registrars of County Courts.	"The County Courts Act, 1866."	35

County Courts Acts
Amendment. [H.L.]

A

B I L L

INTITLED

An Act to amend the Acts relating to
the Jurisdiction of the County Courts.

(*Brought from the Lords 25 June 1867.*)

*Ordered, by The House of Commons, to be Printed,
27 June 1867.*

[Bill 212.]

Under 2 oz.



A

B I L L

TO

Abolish the Power of levying the Assessment known as "Rogue Money," and in lieu thereof to confer on the Commissioners of Supply of Counties in Scotland the Power of levying a "County General Assessment."

WHEREAS it is expedient to abolish the Power of levying the Assessment known as "Rogue Money," and in lieu thereof to confer upon the Commissioners of Supply of Counties in Scotland the Power of levying a "County General Assessment:"

Preamble.

Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

- 10 1. From and after the passing of this Act, it shall no longer be lawful for the Commissioners of Supply of Counties in Scotland to impose or levy the Rate or Assessment heretofore known as "Rogue Money : " Provided always, that nothing herein contained shall prejudice the Right of the said Commissioners to recover any
- [Bill 225.] A Rogue
- Abolition of "Rogue Money."

Rogue Money which may have been imposed before the passing hereof.

Salaries of
County
Officials, &c.
to be de-
frayed out
of County
General
Assessment.

2. The Salaries or Fees of Clerks, Treasurers, Collectors, Auditors, Procurators Fiscal in the Sheriff and Justice of Peace Courts, Clerks of Justice of Peace Court, and other Officials necessarily employed 5 in conducting the Affairs of each County, in so far as such Salaries or Fees at present form a legal Charge against the County, together with the necessary Outlays of such Officials in so far as not covered by their said Salaries or Fees, and all Expenses incurred in searching for, apprehending, subsisting, or prosecuting Criminals, all 10 Expenses connected with the upholding, repairing, renting, furnishing, insuring, lighting, or warming any Court-house or any Buildings belonging to or occupied for the Purposes of such County, all Expenses of advertising or intimating Meetings of the Commissioners of Supply and Justices of the Peace, or any Com- 15 mittees thereof respectively, all Expenses connected with the holding of such Meetings and of the Court for striking the Fiars Prices for said County, all Expenses connected with the Observance and Execution of the Laws relative to Weights and Measures, all Expenses occasioned by Damage done to Property within the 20 County by tumultuous or riotous Assemblies, all Expenses properly incurred by the said Commissioners in pursuing or defending any Action in any Court of Law, or in taking the Advice of legal or other professional Persons with reference to any Question affecting the Interests of the County, or in submitting any such Question to 25 the Decision of any Arbiter or Arbiters, or in making up Titles to any Property belonging to the County, all Expenses or Payments presently directed by any Act of Parliament to be defrayed out of the "Rogue Money," and all Expenses properly incurred by the said Commissioners in promoting or opposing any Bill in Parlia- 30 ment, in Terms of a Resolution adopted by Two Thirds of the Commissioners of Supply present at any Meeting specially called for the Purpose, in so far as any of such Salaries, Fees, or Expenses are not specially provided for by Law, may be defrayed by the said Commissioners out of the "County General Assessment," to 35 be made and levied by them in Terms of this Act.

General
County
Assessment
to be levied
for the Pur-
poses of
this Act.

3. It shall be lawful for the Commissioners of Supply of every County in Scotland once in each Year to impose an Assessment for the Purposes of this Act, to be called the "County General Assessment," upon all Lands and Heritages within such County, 40 according to the yearly Value thereof as established by the Valuation Rolls in force for the Year of Assessment, subject to the Provision in the Fifth Section hereof, and that at such Rate in each Year as the said Commissioners shall deem necessary, in order

order to provide sufficient Funds for all the Purposes of this Act, including such Sum as may be requisite to cover the Expenses of Assessment, Collection, and Management, and any Arrears of preceding Years; and the said Assessment so to be laid on in each
 5 Year shall be payable as for the Period from Whitsunday in such Year to Whitsunday in the Year immediately following, and may be levied either on the Proprietor or Tenant of all such Lands and Heritages; but such Tenant, in case of his paying such Assessment, shall be entitled to deduct the Amount from the Rent payable by
 10 him: Provided always, that the said Commissioners shall not levy Assessment in respect of any Dwelling House, Shop, or other such Premises, or any Offices or Outhouses connected therewith, which shall be unoccupied and unfurnished during the whole of the Period to which such Assessment applies.

15 4. The Commissioners of Supply of any County may, on the Ground of Poverty or Inability of any Person liable in Assessment under this Act, in respect of any Lands and Heritages in Value not amounting to *Four Pounds* per Annum, remit, in whole or in part, Payment of the said Assessment by such Person,
 20 in such Manner as the said Commissioners shall, in their Discretion, think just and reasonable, but upon no other Account whatsoever.

Commissioners of Supply may relieve from Payment of Assessment in case of Poverty.

5. In assessing for the Purposes of this Act, the Commissioners of Supply shall assess for the Purposes of this Act the whole
 25 County, including all detached Parts of other Counties locally situated therein, and excluding all detached Parts of their own County forming Parts of other Counties for the Purposes of this Act; and for the Purposes of this Act all detached Parts of Counties shall be considered as forming Part of that County by
 30 which they are surrounded, or if partly surrounded by Two or more Counties then as forming Part of that County with which they have the longest common Boundary; and the Provisions of the Seventieth and Seventy-first Sections of the Act of the Twentieth and Twenty-first Victoria, Chapter Seventy-two, with respect to the
 35 Parishes of Cumbernauld and Kirkintilloch, and with respect to the Parishes or Parts of the Parishes of Tuliallan, Culross, Logie, Fossoway, Muckhart, and Alva, shall be and the same are hereby incorporated herewith, the Words "Purposes of this Act," and
 40 strued herein as referring to the Purposes and Provisions of this Act.

Detached Parts of Counties to be taken as Part of the County in which locally situated.

6. All Assessments under this Act (whether upon detached Parts of Counties or otherwise) shall be collected, obtained, and recovered,
 [225.] A 2 the Assessments under this Act to be

recovered,
&c. as Police
Assessments
under
20 & 21 Vict.
c. 72.

the Collector thereof appointed, the Insolvency of such Collector provided against, the Monies produced thereby lodged and dealt with, and all Disputes in regard thereto determined, and the Accounts of the said Commissioners and their Collectors with reference to the same kept and audited in the same Manner, as these several Matters are provided for under the Act Twentieth and Twenty-first Victoria, Chapter Seventy-two, with respect to the Police Assessments for the Purposes of that Act.

Incorporation of Commissioners of Supply.

7. The Commissioners of Supply of each County in Scotland shall be and the same are hereby incorporated, under the Name and Title of the Commissioners of Supply of such County, and each Incorporation shall include all the Persons who *at the passing of this Act* are or who shall be hereafter placed upon the List of Commissioners of Supply of the County, and shall have Power in the Corporate Name to sue and be sued, and to acquire, hold, and transfer Property, Heritable and Moveable, and shall possess such other Powers as by Law belong to an Incorporation.

Interpretation of Terms.

8. The following Words and Expressions, when used in this Act, shall in the Construction thereof be interpreted as follows, except where the Nature of the Provision or the Context shall exclude or be repugnant to such Construction; (that is to say,) the Word "County" shall include Stewartry, and shall extend to all Burghs and Places within the County or Stewartry, not being a Royal or Parliamentary Burgh; the Expression "Lands and Heritages" shall have the like Signification as in the Act of the Seventeenth and Eighteenth Years of Her Majesty, Chapter Ninety-one; the Expression "Commissioners of Supply," or "Commissioners of Supply of the County," shall mean the Commissioners of Supply of the County, exclusive of any Burgh or detached Part of any other County adjoining or locally situated within the same, and inclusive of any detached Part of such first-mentioned County locally situated in any other County.

Short Title.

9. This Act may be cited for all Purposes as the "County General Assessment (Scotland) Act, 1867."

County General Assessment (Scotland).

A

B I L L

To abolish the Power of levying the
Assessment known as "Rogue Money,"
and in lieu thereof to confer on the
Commissioners of Supply of Counties
in Scotland the Power of levying a
"County General Assessment."

(Prepared and brought in by
Sir Graham Montgomery and
Mr. Secretary Gathorne Hardy.)

*Ordered, by The House of Commons, to be Printed,
2 July 1867.*

[Bill 225.]

Under 1 oz.



A

B I L L

[AS AMENDED IN COMMITTEE

TO

Abolish the Power of levying the Assessment known as “Rogue Money,” and in lieu thereof to confer on the Commissioners of Supply of Counties in Scotland the Power of levying a “County General Assessment.”

WHEREAS it is expedient to abolish the Power of levying the Assessment known as “Rogue Money,” and in lieu thereof to confer upon the Commissioners of Supply of Counties in Scotland the Power of levying a “County General Assessment :”

Preamble.

Be it enacted by the Queen’s most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

- 10 1. From and after the passing of this Act, it shall no longer be lawful for the Commissioners of Supply of Counties in Scotland to impose or levy the Rate or Assessment heretofore known as “Rogue Money :” Provided always, that nothing herein contained shall prejudice the Right of the said Commissioners to recover any
- [Bill 270.] A Rogue

Abolition of
“Rogue
Money.”

Rogue Money which may have been imposed before the passing hereof.

Salaries of
County
Officials, &c.
to be de-
frayed out
of County
General
Assessment.

2. The Salaries or Fees of Clerks, Treasurers, Collectors, Auditors, Procurators Fiscal in the Sheriff and Justice of Peace Courts, Clerks of Justice of Peace Court, and other Officials necessarily employed 5 in conducting the Affairs of each County, in so far as such Salaries or Fees at present form a legal Charge against the County, together with the necessary Outlays of such Officials in so far as not covered by their said Salaries or Fees, all Expenses incurred in searching for, apprehending, subsisting, prosecuting, or punishing Criminals, 10 all Expenses connected with the upholding, repairing, renting, furnishing, insuring, lighting, or warming any Court-house or any Buildings belonging to or occupied for the Purposes of such County, all Expenses of advertising or intimating Meetings of the Commissioners of Supply and Justices of the Peace, or any Com- 15 mittees thereof respectively, all Expenses connected with the holding of such Meetings, all Expenses connected with the holding of the Court for striking the Fiars Prices for said County, in so far as the said last-mentioned Expenses have hitherto been defrayed by the said County, all Expenses connected with the Observance 20 and Execution of the Laws relative to Weights and Measures, all Expenses occasioned by Damage done to Property within the County by tumultuous or riotous Assemblies, all Expenses properly incurred by the said Commissioners in pursuing or defending any Action in any Court of Law, or in taking the Advice of legal or 25 other professional Persons with reference to any Question affecting the Interests of the County, or in submitting any such Question to the Decision of any Arbiter or Arbiters, or in making up Titles to any Property belonging to the County, all Expenses or Payments presently directed by any Act of Parliament to be defrayed out of 30 the "Rogue Money," and all Expenses properly incurred by the said Commissioners in promoting or opposing any Bill in Parliament, or in making any Contribution to the Funds of any Infirmary, in Terms of a Resolution adopted by Three Fourths of the Com- 35 missioners of Supply present at any Meeting specially called for the Purpose, in so far as any of such Salaries, Fees, or Expenses are not specially provided for by Law or Usage, may be defrayed by the said Commissioners out of the "County General Assessment," to be made and levied by them in Terms of this Act.

General
County
Assessment
to be levied
for the Pur-
poses of
this Act.

3. It shall be lawful for the Commissioners of Supply of every 40 County in Scotland once in each Year to impose an Assessment for the Purposes of this Act, to be called the "County General Assessment," upon all Lands and Heritages within such County, according

according to the yearly Value thereof as established by the Valuation Rolls in force for the Year of Assessment, subject to the Provision in the Fifth Section hereof, and that at such Rate in each Year as the said Commissioners shall deem necessary, in
 5 order to provide sufficient Funds for all the Purposes of this Act, including such Sum as may be requisite to cover the Expenses of Assessment, Collection, and Management, and any Arrears of preceding Years; and the said Assessment so to be laid on in each
 10 Year shall be payable as for the Period from Whitsunday in such Year to Whitsunday in the Year immediately following, and may be levied either on the Proprietor or Tenant of all such Lands and Heritages; but such Tenant, in case of his paying such Assessment, shall be entitled to deduct the Amount from the Rent payable by him, unless under special existing Agreement with his Landlord to
 15 the contrary: Provided always, that the said Commissioners shall not levy Assessment in respect of any Dwelling House, Shop, or other such Premises, or any Offices or Outhouses connected therewith, which shall be unoccupied and unfurnished during the whole of the Period to which such Assessment applies.

20 4. The Commissioners of Supply of any County may, on the Ground of Poverty or Inability of any Person liable in Assessment under this Act, in respect of any Lands and Heritages in Value not amounting to Four Pounds per Annum, remit, in whole or in part, Payment of the said Assessment by such Person,
 25 in such Manner as the said Commissioners shall, in their Discretion, think just and reasonable, but upon no other Account whatsoever.

Commissioners of Supply may relieve from Payment of Assessment in case of Poverty.

5. In assessing for the Purposes of this Act, the Commissioners of Supply shall assess for the Purposes of this Act the whole
 30 County, including all detached Parts of other Counties locally situated therein, and excluding all detached Parts of their own County forming Parts of other Counties for the Purposes of this Act; and for the Purposes of this Act all detached Parts of Counties shall be considered as forming Part of that County by
 35 which they are surrounded, or if partly surrounded by Two or more Counties then as forming Part of that County with which they have the longest common Boundary; and the Provisions of the Seventieth and Seventy-first Sections of the Act of the Twentieth and Twenty-first Victoria, Chapter Seventy-two, with respect to the
 40 Parishes of Cumbernauld and Kirkintilloch, and with respect to the Parishes or Parts of the Parishes of Tuliallan, Culross, Logie, Fossoway, Muckhart, and Alva, shall be and the same are hereby incorporated herewith, the Words "Purposes of this Act," and

Detached Parts of Counties to be taken as Part of the County in which locally situated.

4 *County General Assessment (Scotland).*

“Provisions of this Act,” therein occurring, being read and construed herein as referring to the Purposes and Provisions of this Act.

Assessments
under this
Act to be
recovered,
&c. as Police
Assessments
under
20 & 21 Vict.
c. 72.

6. All Assessments under this Act (whether upon detached Parts of Counties or otherwise) shall be collected, obtained, and recovered, and in the Case of Bankruptcy or Insolvency be paid and be 5 preferable, the Collector thereof appointed, the Insolvency of such Collector provided against, the Monies produced thereby lodged and dealt with, and all Disputes in regard thereto determined, and the Accounts of the said Commissioners and their Collectors with reference to the same kept and audited in the same Manner, as 10 these several Matters are provided for under the Act Twentieth and Twenty-first Victoria, Chapter Seventy-two, with respect to the Police Assessments for the Purposes of that Act.

Lands in
detached
Parts of
Counties
to qualify
Commissioners for
County
within
which they
are locally
situated.

7. From and after the passing of this Act Lands and Heritages within detached Parts of Counties, according to the annual Value 15 thereof, shall constitute and afford the same Qualification for Enrolments of Commissioners of Supply within the County of which, for the Purposes of this Act, they form Part as the other Lands and Heritages within such Counties now constitute and afford; and they shall cease to constitute and afford any Qualifica- 20 tion for Enrolment of any Commissioner of Supply for the County from which, for the Purposes of this Act, they are detached.

Incorporation of Commissioners of Supply.

8. The Commissioners of Supply of each County in Scotland shall be and the same are hereby incorporated, under the Name and Title of the Commissioners of Supply of such County, and each 25 Incorporation shall include all the Persons who at the passing of this Act are or who shall be hereafter placed upon the List of Commissioners of Supply of such County, so long as they retain their Qualification to act as such Commissioners, and shall have Power in their Corporate Name to sue and be sued, and to acquire, hold, 30 and transfer Property, Heritable and Moveable, and shall possess such other Powers as by Law belong to an Incorporation: Provided always, that it shall be sufficient that any Deeds granted by the said Commissioners shall be signed by Two of their Number and by the Clerk of Supply, and that all Citations, Intimations, Notices, 35 Schedules of Protest, of or for the said Commissioners shall be competently made or served if delivered to the Clerk of Supply or left for him within his Office.

Act not to
subject to
Assessment
any Lands
now exempt

9. Nothing herein contained shall confer on the Commissioners of Supply of any County the Right to levy Assessments under this 40 Act on any Lands or Heritages upon which it is not now competent for

for Commissioners of Supply of some County to levy Rogue Money, nor shall anything herein contained prejudice the Right now possessed by any other Body than Commissioners of Supply to levy Rogue Money under or in virtue of any Law or Custom now in
5 force, but such Right shall continue as heretofore.

from Rogue Money, or to prejudice Right of other Bodies than Commissioners of Supply to levy Rogue Money.

10 10. The following Words and Expressions, when used in this Act, shall in the Construction thereof be interpreted as follows, except where the Nature of the Provision or the Context shall exclude or be repugnant to such Construction; (that is to say,) the Word
15 “County” shall include Stewartry, and shall extend to all Burghs and Places within the County or Stewartry, not being a Royal or Parliamentary Burgh; the Expression “Lands and Heritages” shall have the like Signification as in the Act of the Seventeenth and Eighteenth Years of Her Majesty, Chapter Ninety-one;
20 the Expression “Commissioners of Supply,” or “Commissioners of Supply of the County,” shall mean the Commissioners of Supply of the County, exclusive of any Burgh or detached Part of such County locally situated within any other County, and inclusive of any detached Part of such last-mentioned County locally situated in such first-mentioned County.

Interpretation of Terms.

11. This Act may be cited for all Purposes as the “County Short Title. General Assessment (Scotland) Act, 1867.”

County General Assessment
(Scotland).

A

BILL

[AS AMENDED IN COMMITTEE]

To abolish the Power of levying the
Assessment known as "Bogus Money,"
and in lieu thereof to confer on the
Commissioners of Supply of Counties
in Scotland the Power of levying a
"County General Assessment."

(Prepared and brought in by
Sir Graham Montgomery and
Mr. Secretary Gathorne Hardy.)

*Ordered, by The House of Commons, to be Printed,
22 July 1867.*

[Bill 270.]

Under 1 oz.

County Treasurers (Ireland) Bill.

ARRANGEMENT OF CLAUSES.

Clause.

1. Interpretation Clause.
2. Upon a Vacancy occurring in the Office of County Treasurer in any County, the Grand Jury shall appoint a Banking Company as Treasurer.
3. All Monies payable to Treasurer to be lodged in the Bank which has been appointed Treasurer; and Receipt of Officers of Banking Company to be a Discharge to the Person paying the same.
4. Payments to be made by Banking Company on Draft drawn by the Secretary of Grand Jury and countersigned by Clerk of the Crown, or by an Order of a Judge of Assize in case of a Refusal of these Officers.
5. Power given to Judge of Assize to make such Order and to award Costs.
6. Banking Company to keep Accounts of Receipts and Payments, classified as ordered by the Auditor of County Treasurers Accounts.
7. Other Duties, except actual Receipts and Payments, and the Accounts thereof, are to devolve on the Secretary of the Grand Jury.
8. Statutory Provisions as to Payments obligatory on Treasurer shall not apply to a Bank acting as Treasurer, but shall make it obligatory on the Secretary to sign Drafts.
9. The Grand Jury may dispense with Security in the Case of a Banking Company being Treasurer.
10. In case a Banking Company stops Payment, &c., the Court of Chancery may restrain it from acting as Treasurer, and appoint another Banking Company to act until next Assizes.
11. Powers of the Lord Lieutenant in Council are extended to fix the Nature and Amount of Security to be given by the Secretary of the Grand Jury where a Banking Company acts as Treasurer, and also to fix the Increase of Salary to be given to Secretary of Grand Jury for Increase of Duties imposed on him.

[Bill 91.]

a

12. Grand

Clause.

12. Grand Jury to regulate Amount to be paid for Expenses of Applotment of County Cess.
 13. Emoluments attached to the Office of Treasurer to revert to Benefit of the County when Banking Company appointed Treasurer.
 14. A Grand Jury may nominate beforehand a Banking Company to act as temporary Treasurer between the occurring of a Vacancy in the Office of Treasurer and the Appointment of a Treasurer by the Grand Jury. In default of such Nomination the Lord Chancellor may appoint a temporary Treasurer.
 15. Treasurer or Secretary of a Grand Jury may during Illness or Absence appoint a Deputy, approved of by the Lord Lieutenant.
 16. The Power of Magistrates to elect a Treasurer to cease.
 17. Provision for the Resignation of County Treasurers, and for their obtaining Compensation for Abolition of the Office or Superannuation, which is not to exceed Two Thirds of their Salary.
 18. Treasurers are not to hold Office after Seventy Years of Age.
 19. Grand Juries may agree with Boards of Guardians to consolidate the Collection of Cess with Poor Rates.
 20. High Constables are to be retained for their other Duties.
 21. This Act extends to all Counties, except Dublin, Dublin City, Cork City, and Limerick City.
 22. The Treasurers Oath not to be required from Banking Companies acting as Treasurers.
 23. Provisions of 1 Vict. c. 54. for Audit to extend to Accounts kept by Secretaries of Grand Juries under this Act.
-



A

B I L L

TO

Amend the Law relating to the Office of County Treasurer in Ireland.

WHEREAS it is expedient that Banking Companies should be appointed as Treasurers of Counties in Ireland, and that Grand Juries should be enabled further to regulate the Mode of Collection and Disbursement of the County Cess : Preamble.

5 Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

1. The Words "Lord Lieutenant in Council" mean the Lord Lieutenant or other Chief Governor or Chief Governors of Ireland for the Time being acting by and with the Advice of Her Majesty's Privy Council in Ireland; and the Word "County" includes County of a City and County of a Town. Interpretation
Clause.

2. At the Assizes following the next Vacancy in the Office of Treasurer of any County in Ireland, the Grand Jury of such County shall appoint a Banking Company to act as Treasurer, and shall fix with such Banking Company the Amount of Interest to be allowed for Money from Time to Time lying to the Credit of the County; and any succeeding Grand Jury of such County may accept the Upon Vacancy
in Office of
Treasurer of
County,
Grand Jury
shall appoint
Banking
Company as
Treasurer.

[Bill 91.] A Resignation

Resignation or revoke the Appointment of any Banking Company, and appoint another such Company as Treasurer.

All Monies payable to Treasurer to be lodged in the Bank appointed Treasurer.

Receipt of Officer of Banking Company to be a Discharge to the Person paying them as Treasurer.

3. From and after such Appointment, all Monies payable to the Treasurer of any County which should be lodged to his Credit in the County Bank of such County shall be paid into the Bank 5 appointed Treasurer for such County; and the Receipt of an Officer for the Time being authorized to give Receipts of any Banking Company acting as Treasurer for any County under this Act, expressing that the Sum therein mentioned has been received by such Banking Company as such Treasurer, shall be a sufficient 10 Discharge to the Party lodging the same.

Payments to be made by Banking Company on Drafts drawn by Secretary of Grand Jury, and countersigned by the Clerk of the Crown;

or by an Order of a Judge of Assize in case of Refusal of these Officers,

4. A Banking Company acting as Treasurer of a County shall pay no Money received by them as such Treasurer, or allowed by them as Interest on Balances to the Credit of such County, except on a Draft payable to a Person named therein or Order, and having 15 endorsed thereon a Receipt expressing the Purpose for which the Amount of the Draft was paid, such Draft to be signed by the Secretary of the Grand Jury of such County, or by such Officer as may lawfully supply his Place during Illness, Absence, or the Vacancy of his Office, and countersigned by the Clerk of the Crown 20 of such County, or by such Officer as may lawfully supply his Place during his Illness, Absence, or the Vacancy of his Office; or upon an Order of a Judge of Assize, in case any of such Officers shall refuse or neglect to sign or countersign a Draft, which in the Opinion of such Judge such Officer might lawfully sign or 25 countersign.

Power to Judge of Assize to make such Order, and to award Costs.

5. Judges of Assize are hereby authorized, upon the Application of any Party interested, and upon hearing the Case in open Court, to make such an Order, and to award Costs against the Party making or against the Officer or Grand Jury opposing such 30 Application.

Banking Company to keep Accounts of Receipts and Payments, classified as ordered by Auditor of County Treasurer's Accounts.

6. A Banking Company acting as Treasurer of a County shall keep the Accounts of Receipts and Payments classified in such Manner as may be ordered by the Auditor of the County Treasurer's Accounts appointed under Statute First Victoria, Chapter Fifty-four, 35 for the Time being, and shall forward a Copy of such Accounts to the Secretary of the Grand Jury of such County from Time to Time as such Secretary shall require, and shall at the First Day of each Assizes present a complete Copy in Duplicate of such Accounts up to but not inclusive of such First Day. 40

7. Whilst

7. Whilst a Banking Company is acting as Treasurer of any County, all the Duties which devolve on the Office of Treasurer, except the actual Receipt and Payment of Money, and the keeping Accounts of such Receipts and Payments, as herein-before provided, shall devolve on the Secretary of the Grand Jury, and he shall keep all such Accounts of Balances outstanding, and of Presentments not claimed, and other Accounts, and shall do all such other Acts as shall be obligatory on a Treasurer other than a Banking Company to do.
8. All Statutable Provisions making it obligatory on the Treasurer of a County to pay Money shall not apply to a Bank acting as Treasurer, but shall apply to the Secretary of a Grand Jury of such County, and shall make it obligatory on him to sign Drafts for the Payment of Money, and on the Clerk of the Crown to countersign such Drafts, if such Payments are duly authorized by the Statute under which they are demanded; provided that the Secretary of the Grand Jury or Clerk of the Crown may postpone the signing or countersigning of any Draft, with a view to bring a Question of Fact as to the Amount claimed before the Grand Jury at the next Assizes, or a Question of Law before the Judge of Assize at such next Assizes.
9. A Grand Jury may, on appointing a Banking Company as Treasurer, entirely dispense with Security from such Company, or require such lesser Security than what would be required from a Treasurer if not a Banking Company as the Grand Jury shall determine.
10. In case any Banking Company, while acting as Treasurer of any County shall stop Payment, or in case any Step shall be taken for winding up the Company, or transferring its Business to another Banking Company, the Secretary of the Grand Jury of such County shall apply to the Court of Chancery for an Injunction to restrain such Banking Company from further acting as Treasurer until the next Assizes, which Order and Injunction the Court is empowered to make; and the Secretary of the Grand Jury may, with the Sanction of the Court of Chancery, take such Proceedings, in the Name of the Secretary of the Grand Jury and Clerk of the Crown for the Time being, as Trustees on behalf of the County, as may be necessary, against a Banking Company so removed by Injunction, to secure an Account and recover any Balance in their Hands, and the Costs of such Proceedings properly and necessarily incurred shall be chargeable in like Manner as the Costs of Law Proceedings by Direction of the Grand Jury.

Other Duties, except actual Receipts and Payments, and Accounts thereof, to devolve on Secretary of Grand Jury.

Statutory Provisions as to Payments obligatory on Treasurer shall not apply to a Bank acting as Treasurer, but shall make it obligatory on Secretary to sign Drafts.

Grand Jury may dispense with Security in the Case of a Banking Company being Treasurer.

In case a Banking Company stops Payment, &c., the Court of Chancery may restrain its acting as Treasurer, and appoint another Banking Company till next Assizes.

Powers of Lord Lieutenant in Council extended to fix Security to be given by Secretary of Grand Jury when Banking Company Treasurer, and also Increase of Salary of Secretary of Grand Jury for Increase of Duty.

6 & 7 W. 4.
c. 116. s. 110.

11. The Powers of the Lord Lieutenant in Council under Statute First Victoria, Chapter Fifty-four, shall extend to the following Matters :

- 1st. To fix the Nature and Amount of Security to be given by the Secretary of the Grand Jury in each County where a Banking Company is nominated or appointed Treasurer ;
- 2nd. Upon the Petition of the Secretary of a Grand Jury of any County where a Banking Company is appointed Treasurer, and a Report of the Grand Jury of such County thereon, to appoint the Increase of Salary to be made to such Secretary, 10 in consideration of the Increase of the Duties imposed on him by this Act ; and the Lord Lieutenant in Council may, in estimating the Increase of Salary to be allowed, take into consideration any other Changes in the Office of Secretary of a Grand Jury made or to be made since the Salaries of 15 those Officers were fixed by Statute Sixth and Seventh William the Fourth, Chapter One hundred and sixteen ; and all Increase of Salary under this Clause shall continue until further Order of the Lord Lieutenant in Council, and shall be payable in like Manner as the Salary of the said Officer 20 is now payable ; provided that no Increase of Salary of the Secretary of any County under this Clause shall exceed One Third of the Salary fixed for the Treasurer of such County by Statute Sixth and Seventh William the Fourth, Chapter One hundred and sixteen, or Statute Seventh William the 25 Fourth and First Victoria, Chapter Two.

Grand Jury to regulate Amount to be paid for Expenses of Applotment of County Cess.

12. It shall be lawful for the Grand Jury in any County where a Banking Company acts as Treasurer to appoint a fixed Sum to be paid to the Secretary of the Grand Jury for the Expenses of the Applotment of the County Cess as regulated by Statute Nineteenth 30 and Twentieth Victoria, Chapter Sixty-three, Section Five, and beyond such fixed Sum such Secretary shall have no Claim for Expenses incurred under that Act.

Emoluments attached to the Office of Treasurer to revert to Benefit of the County when Banking Company appointed Treasurer.

13. The Emoluments now attached to the Office of Treasurer of a County shall, on the Appointment of a Banking Company as 35 Treasurer of such County, revert to the Benefit of the County, and neither the Banking Company nor the Secretary of the Grand Jury shall receive any Part of such Emoluments, nor shall the Secretary of the Grand Jury be entitled to receive any Payment for any Duty of Treasurer devolving on him under this Act, save such as 40 provided for in the preceding Sections.

Grand Jury may nominate beforehand a

14. A Grand Jury may nominate in anticipation a Banking Company to act as temporary Treasurer between the Occurrence
of

of the next Vacancy in the Office of Treasurer and the Appointment of a Treasurer by the Grand Jury; and in case the Grand Jury of any County omit to make such Nomination, the Secretary of the Grand Jury of such County, immediately upon a Vacancy
 5 in the Office of Treasurer of such County occurring, shall apply in a summary Way to the Lord Chancellor to appoint a Banking Company to act as temporary Treasurer until a Treasurer is appointed by the Grand Jury; and the previous Nomination of the Grand Jury of such County, or the Order of the Lord Chancellor,
 10 as the Case may be, shall constitute the Banking Company named therein Treasurer of such County.

Banking Company to act as temporary Treasurer between Vacancy and Appointment by Grand Jury.

In default, Lord Chancellor may appoint temporary Treasurer.

15 15. The Treasurer of a County or the Secretary of a Grand Jury may, during temporary Illness or unavoidable Absence, appoint any Person, approved of by the Lord Lieutenant, to act as Deputy, for whom such Treasurer or Secretary respectively shall be responsible. Every such Appointment, and the Period during which the Deputy acted, shall be notified to the Grand Jury of the County at the next Assizes; and such Power to appoint a Deputy shall not authorize
 20 such Deputy continue to act after the meeting of the Grand Jury, unless with the Sanction of that Body.

The Treasurer or Secretary may during Illness or Absence appoint a Deputy, approved of by Lord Lieutenant.

16. From and after the *passing of this Act*, the Power of Magistrates to elect a County Treasurer for any County in Ireland shall cease and determine.

Magistrates Power of electing Treasurer to cease.

25 17. Any County Treasurer may present a Memorial to the Lord Lieutenant in Council, offering to resign, in order to facilitate the Abolition of his Office, or asking for Superannuation; and the Lord Lieutenant in Council is hereby authorized to make an Order, charging, in like Manner as the Treasurer's Salary is now charged,
 30 Compensation for the Abolition of his Office, or Superannuation, not exceeding Two Thirds of the Salary of such Treasurer, as fixed by Statute Sixth and Seventh William the Fourth, Chapter One hundred and sixteen or by Statute First and Second Victoria, Chapter Two, such Compensation or Superannuation to be chargeable and payable
 35 in like Manner in all respects as such Treasurer's Salary is now chargeable and payable; and in estimating the Compensation or Superannuation to be awarded the Lord Lieutenant in Council shall observe the like Rules, and may exercise the like Discretion, as the Lords Commissioners of Her Majesty's Treasury are required to
 40 observe, and may exercise, in respect of Compensations and Superannuations granted under the General Superannuation Act, 1859.

Provision for County Treasurers' resigning, and obtaining up to Two Thirds of their Salary as Compensation for Abolition of Office or as Superannuation.

18. No County Treasurer above *Seventy Years* of Age shall hold Office longer than until the First Assizes happening next after the *passing of this Act*; and no County Treasurer who shall attain the

Treasurer not to hold Office after 70 Years of Age.

Age of *Seventy Years* after the *passing of this Act* shall hold Office longer than until the Assizes next after he attains the Age of *Seventy Years*, and every such Treasurer disabled by Age from continuing in Office shall be entitled to the Superannuation Allowance herein-before provided. 5

Grand Juries
may agree with
Boards of
Guardians to
consolidate
Collection of
Cess with Poor
Rates.

19. In case the Grand Jury of any County shall at Two Assizes adopt a Resolution for the Consolidation of the Collection of the County Cess with the Collection of the Poor Rates, and in case the Boards of Guardians of the several Unions in the County shall, with the Sanction of the Poor Law Commissioners, agree to such 10 Consolidation, the Lord Lieutenant in Council may order the Collection of Grand Jury Cess in such County to be thereafter made by the Poor Rates Collectors, and lodged by them along with the Poor Rates in the Banks acting as Treasurers of Poor Law Unions in which they are respectively Collectors, and to be from 15 Time to Time transferred by the Boards of Guardians to the Credit of the Treasurer, or to a Bank acting as Treasurer, as the Case may be; such Collection, Lodgment, and Transfer to be made in such Manner and Form, and at such Times, and on such Terms as to Remuneration, Costs, and Expenses, as the Lord Lieutenant in 20 Council shall by Orders from Time to Time make, direct, and determine; and upon any such Consolidation the Guardians of the Poor and the Poor Rate Collectors of each Union shall have the same Powers and Authority for collecting County Cess consolidated with Poor Rates that they have for collecting the Poor 25 Rates with which it is consolidated.

High Con-
stables to be
retained for
other Duties.

20. In case of such Transfer of Collection of County Cess to Poor Rates Collectors in any County, the Grand Jury shall nevertheless appoint a High Constable for each Barony to discharge the other Duties, besides the Collection of the Cess, devolving on the 30 High Constable or Collectors of Grand Jury Cess, and shall pay such High Constable such Remuneration as the Lord Lieutenant in Council shall, by any General or Special Orders, from Time to Time direct and determine.

Act extends to
all Counties
except Dublin,
Dublin City,
Cork City, and
Limerick City.

21. This Act shall extend to all Counties in Ireland, except 35 Dublin, and to all Counties of Cities and of Towns in Ireland, except Dublin, Cork, and Limerick.

Treasurers
Oath not
required from
Banking
Companies.

22. The Provisions of Statute Fourth George the Fourth, Chapter Thirty-three, Section Fourteen, as to the Treasurers Oath, shall not apply to Banking Companies appointed Treasurers. 40

Provisions of
1 Vict. c. 54.
for Audit to
extend to
Accounts kept
by Secretaries
of Grand Juries
under this Act.

23. The Provisions of Statute First Victoria, Chapter Fifty-four, shall extend to all Accounts kept by Secretaries of Grand Juries or Banking Companies under the Provisions of this Act.

County Treasurers (Ireland).

A

B I L L

To amend the Law relating to the Office
of County Treasurer in Ireland.

*(Prepared and brought in by
The O'Conor Don, Colonel Greville-Nugent,
and Mr. Synan.)*

*Ordered, by The House of Commons, to be Printed,
26 March 1867.*

[BII 91.]

Under 2 oz.

County Treasurers (Ireland) Bill.

[AS AMENDED IN COMMITTEE.]

ARRANGEMENT OF CLAUSES.

Clause.

1. Interpretation Clause.
2. Upon a Vacancy occurring in the Office of County Treasurer in any County, the Grand Jury shall appoint a Banking Company as Treasurer.
3. All Monies payable to Treasurer to be lodged in the Bank which has been appointed Treasurer; and Receipt of Officers of Banking Company to be a Discharge to the Person paying the same.
4. Payments to be made by Banking Company on Draft drawn by the Secretary of Grand Jury and countersigned by Clerk of the Crown, or by an Order of a Judge of Assize in case of a Refusal of these Officers.
5. Power given to Judge of Assize to make such Order and to award Costs.
6. Banking Company to keep Accounts of Receipts and Payments, classified as ordered by the Auditor of County Treasurers Accounts.
7. Other Duties, except actual Receipts and Payments, and the Accounts thereof, are to devolve on the Secretary of the Grand Jury.
8. Statutory Provisions as to Payments obligatory on Treasurer shall not apply to a Bank acting as Treasurer, but shall make it obligatory on the Secretary to sign Drafts.
9. The Grand Jury may dispense with Security in the Case of a Banking Company being Treasurer.
10. In case a Banking Company stops Payment, &c., the Court of Chancery may restrain it from acting as Treasurer, and appoint another Banking Company to act until next Assizes.
11. Powers of the Lord Lieutenant in Council are extended to fix the Nature and Amount of Security to be given by the Secretary of the Grand Jury where a Banking Company acts as Treasurer, and also to fix the Increase of Salary to be given to Secretary of Grand Jury for Increase of Duties imposed on him.

[Bill 159.]

A

12. Grand

Clause.

12. Grand Jury to regulate Amount to be paid for Expenses of Applotment of County Cess.
13. Emoluments attached to the Office of Treasurer to revert to Benefit of the County when Banking Company appointed Treasurer.
14. A Grand Jury may nominate beforehand a Banking Company to act as temporary Treasurer between the occurring of a Vacancy in the Office of Treasurer and the Appointment of a Treasurer by the Grand Jury. In default of such Nomination the Lord Chancellor may appoint a temporary Treasurer.
15. Treasurer or Secretary of a Grand Jury may during Illness or Absence appoint a Deputy, approved of by the Lord Lieutenant.
16. The Power of Magistrates to elect a Treasurer to cease.
17. Provision for the Resignation of County Treasurers, and for their obtaining Compensation for Abolition of the Office or Superannuation, which is not to exceed Two Thirds of their Salary.
18. This Act extends to all Counties, except Dublin, Dublin City, Cork City, and Limerick City.
19. The Treasurers Oath not to be required from Banking Companies acting as Treasurers.
20. Provisions of 1 Vict. c. 54. for Audit to extend to Accounts kept by Secretaries of Grand Juries under this Act.



A

B I L L

[AS AMENDED IN COMMITTEE]

TO

Amend the Law relating to the Office of County
Treasurer in Ireland.

WHEREAS it is expedient that Banking Companies should be appointed as Treasurers of Counties in Ireland : Preamble.

Be it enacted by the Queen's most Excellent Majesty,
by and with the Advice and Consent of the Lords Spiritual and
5 Temporal, and Commons, in this present Parliament assembled, and
by the Authority of the same, as follows :

1. The Words "Lord Lieutenant in Council" mean the Lord Lieutenant or other Chief Governor or Chief Governors of Ireland for the Time being acting by and with the Advice of Her Majesty's
10 Privy Council in Ireland; and the Word "County" includes County of a City and County of a Town. Interpretation Clause.

2. At the Assizes following the next Vacancy in the Office of Treasurer of any County in Ireland the Grand Jury of such County shall appoint a Banking Company to act as Treasurer, and shall fix
15 with such Banking Company the Amount of Interest to be allowed for Money from Time to Time lying to the Credit of the County; and any succeeding Grand Jury of such County may accept the Upon Vacancy in Office of Treasurer of County, Grand Jury shall appoint Banking Company as Treasurer.

[Bill 159.]

A 2

Resignation

Resignation or revoke the Appointment of any Banking Company, and appoint another such Company as Treasurer.

All Monies payable to Treasurer to be lodged in the Bank appointed Treasurer.

Receipt of Officer of Banking Company to be a Discharge to the Person paying them as Treasurer.

3. From and after such Appointment, all Monies payable to the Treasurer of any County which should be lodged to his Credit in the County Bank of such County shall be paid into the Bank 5 appointed Treasurer for such County; and the Receipt of an Officer for the Time being authorized to give Receipts of any Banking Company acting as Treasurer for any County under this Act, expressing that the Sum therein mentioned has been received by such Banking Company as such Treasurer, shall be a sufficient 10 Discharge to the Party lodging the same.

Payments to be made by Banking Company on Drafts drawn by Secretary of Grand Jury, and countersigned by the Clerk of the Crown;

or by an Order of a Judge of Assize in case of Refusal of these Officers.

4. A Banking Company acting as Treasurer of a County shall pay no Money received by them as such Treasurer, or allowed by them as Interest on Balances to the Credit of such County, except 15 on a Draft payable to a Person named therein or Order, and having endorsed thereon a Receipt expressing the Purpose for which the Amount of the Draft was paid, such Draft to be signed by the Secretary of the Grand Jury of such County, or by such Officer as may lawfully supply his Place during Illness, Absence, or the 20 Vacancy of his Office, and countersigned by the Clerk of the Crown of such County, or by such Officer as may lawfully supply his Place during his Illness, Absence, or the Vacancy of his Office; or upon an Order of a Judge of Assize, in case any of such Officers shall refuse or neglect to sign or countersign a Draft, which in the Opinion of such Judge such Officer might lawfully sign or 25 countersign.

Power to Judge of Assize to make such Order, and to award Costs.

5. Judges of Assize are hereby authorized, upon the Application of any Party interested, and upon hearing the Case in open Court, to make such an Order, and to award Costs against the Party making or against the Officer or Grand Jury opposing such 30 Application.

Banking Company to keep Accounts of Receipts and Payments, classified as ordered by Auditor of County Treasurer's Accounts.

6. A Banking Company acting as Treasurer of a County shall keep the Accounts of Receipts and Payments classified in such Manner as may be ordered by the Auditor of the County Treasurer's Accounts appointed under Statute First Victoria, Chapter Fifty-four, 35 for the Time being, and shall forward a Copy of such Accounts to the Secretary of the Grand Jury of such County from Time to Time as such Secretary shall require, and shall at the First Day of each Assizes present a complete Copy in Duplicate of such Accounts up to but not inclusive of such First Day. 40

7. Whilst a Banking Company is acting as Treasurer of any County, all the Duties which devolve on the Office of Treasurer, except the actual Receipt and Payment of Money, and the keeping Accounts of such Receipts and Payments, as herein-before provided, shall devolve on the Secretary of the Grand Jury, and he shall keep all such Accounts of Balances outstanding, and of Presentments not claimed, and other Accounts, and shall do all such other Acts as shall be obligatory on a Treasurer other than a Banking Company to do.
8. All Statutable Provisions making it obligatory on the Treasurer of a County to pay Money shall not apply to a Bank acting as Treasurer, but shall apply to the Secretary of a Grand Jury of such County, and shall make it obligatory on him to sign Drafts for the Payment of Money, and on the Clerk of the Crown to countersign such Drafts, if such Payments are duly authorized by the Statute under which they are demanded; provided that the Secretary of the Grand Jury or Clerk of the Crown may postpone the signing or countersigning of any Draft, with a view to bring a Question of Fact as to the Amount claimed before the Grand Jury at the next Assizes, or a Question of Law before the Judge of Assize at such next Assizes.
9. A Grand Jury may, on appointing a Banking Company as Treasurer, entirely dispense with Security from such Company, or require such lesser Security than what would be required from a Treasurer if not a Banking Company as the Grand Jury shall determine.
10. In case any Banking Company, while acting as Treasurer of any County shall stop Payment, or in case any Step shall be taken for winding up the Company, or transferring its Business to another Banking Company, the Secretary of the Grand Jury of such County shall apply to the Court of Chancery for an Injunction to restrain such Banking Company from further acting as Treasurer until the next Assizes, which Order and Injunction the Court is empowered to make; and the Secretary of the Grand Jury may, with the Sanction of the Court of Chancery, take such Proceedings, in the Name of the Secretary of the Grand Jury and Clerk of the Crown for the Time being, as Trustees on behalf of the County, as may be necessary, against a Banking Company so removed by Injunction, to secure an Account and recover any Balance in their Hands, and the Costs of such Proceedings properly and necessarily incurred shall be chargeable in like Manner as the Costs of Law Proceedings by Direction of the Grand Jury.

Other Duties, except actual Receipts and Payments, and Accounts thereof, to devolve on Secretary of Grand Jury.

Statutory Provisions as to Payments obligatory on Treasurer shall not apply to a Bank acting as Treasurer, but shall make it obligatory on Secretary to sign Drafts.

Grand Jury may dispense with Security in the Case of a Banking Company being Treasurer.

In case a Banking Company stops Payment, &c., the Court of Chancery may restrain its acting as Treasurer, and appoint another Banking Company till next Assizes.

Powers of Lord Lieutenant in Council extended to fix Security to be given by Secretary of Grand Jury when Banking Company Treasurer, and also Increase of Salary of Secretary of Grand Jury for Increase of Duty.

11. The Powers of the Lord Lieutenant in Council under Statute First Victoria, Chapter Fifty-four, shall extend to the following Matters :

- 1st. To fix the Nature and Amount of Security to be given by the Secretary of the Grand Jury in each County where a Banking Company is nominated or appointed Treasurer; 5
- 2nd. Upon the Petition of the Secretary of a Grand Jury of any County where a Banking Company is appointed Treasurer, and a Report of the Grand Jury of such County thereon, to appoint the Increase of Salary to be made to such Secretary, 10 in consideration of the Increase of the Duties imposed on him by this Act; and the Lord Lieutenant in Council may, in estimating the Increase of Salary to be allowed, take into consideration any other Changes in the Office of Secretary of a Grand Jury made or to be made since the Salaries of 15 those Officers were fixed by Statute Sixth and Seventh William the Fourth, Chapter One hundred and sixteen; and all Increase of Salary under this Clause shall continue until further Order of the Lord Lieutenant in Council, and shall be payable in like Manner as the Salary of the said Officer 20 is now payable; provided that no Increase of Salary of the Secretary of any County under this Clause shall exceed One Third of the Salary fixed for the Treasurer of such County by Statute Sixth and Seventh William the Fourth, Chapter One hundred and sixteen, or Statute Seventh William the 25 Fourth and First Victoria, Chapter Two.

6 & 7 W. 4.
c. 116. s. 110.

Grand Jury to regulate Amount to be paid for Expenses of Applotment of County Cess.

12. It shall be lawful for the Grand Jury in any County where a Banking Company acts as Treasurer to appoint a fixed Sum to be paid to the Secretary of the Grand Jury for the Expenses of the Applotment of the County Cess as regulated by Statute Nineteenth 30 and Twentieth Victoria, Chapter Sixty-three, Section Five, and beyond such fixed Sum such Secretary shall have no Claim for Expenses incurred under that Act.

Emoluments attached to the Office of Treasurer to revert to Benefit of the County when Banking Company appointed Treasurer.

13. The Emoluments now attached to the Office of Treasurer of a County shall, on the Appointment of a Banking Company as 35 Treasurer of such County, revert to the Benefit of the County, and neither the Banking Company nor the Secretary of the Grand Jury shall receive any Part of such Emoluments, nor shall the Secretary of the Grand Jury be entitled to receive any Payment for any Duty of Treasurer devolving on him under this Act, save such as 40 provided for in the preceding Sections.

Grand Jury may nominate beforehand a

14. A Grand Jury may nominate in anticipation a Banking Company to act as temporary Treasurer between the Occurrence of

of the next Vacancy in the Office of Treasurer and the Appointment of a Treasurer by the Grand Jury; and in case the Grand Jury of any County omit to make such Nomination, the Secretary of the Grand Jury of such County, immediately upon a Vacancy
 5 in the Office of Treasurer of such County occurring, shall apply in a summary Way to the Lord Chancellor to appoint a Banking Company to act as temporary Treasurer until a Treasurer is appointed by the Grand Jury; and the previous Nomination of the Grand Jury of such County, or the Order of the Lord Chancellor,
 10 as the Case may be, shall constitute the Banking Company named therein Treasurer of such County.

Banking Company to act as temporary Treasurer between Vacancy and Appointment by Grand Jury.

In default, Lord Chancellor may appoint temporary Treasurer.

15. The Treasurer of a County or the Secretary of a Grand Jury may, during temporary Illness or unavoidable Absence, appoint any Person, approved of by the Lord Lieutenant, to act as Deputy, for
 15 whom such Treasurer or Secretary respectively shall be responsible. Every such Appointment, and the Period during which the Deputy acted, shall be notified to the Grand Jury of the County at the next Assizes; and such Power to appoint a Deputy shall not authorize any joint Tenure of the Office of Treasurer or Secretary, nor shall
 20 such Deputy continue to act after the meeting of the Grand Jury, unless with the Sanction of that Body.

The Treasurer or Secretary may during Illness or Absence appoint a Deputy, approved of by Lord Lieutenant.

16. From and after the passing of this Act, the Power of Magistrates to elect a County Treasurer for any County in Ireland shall cease and determine.

Magistrates Power of electing Treasurer to cease.

17. Any County Treasurer may present a Memorial to the Lord Lieutenant in Council, offering to resign, in order to facilitate the Abolition of his Office, or asking for Superannuation; and the Lord Lieutenant in Council is hereby authorized to make an Order, charging, in like Manner as the Treasurer's Salary is now charged,
 25 Compensation for the Abolition of his Office, or Superannuation, not exceeding Two Thirds of the Salary and Emoluments of such Treasurer, as fixed by Statute Sixth and Seventh William the Fourth, Chapter One hundred and sixteen, or by Statute First Victoria, Chapter Fifty-four, such Compensation or Superannuation
 30 to be chargeable and payable in like Manner in all respects as such Treasurer's Salary is now chargeable and payable; and in estimating the Compensation or Superannuation to be awarded the Lord Lieutenant in Council shall observe the like Rules, and may exercise the like Discretion, as the Lords Commissioners of Her
 40 Majesty's Treasury are required to observe, and may exercise, in respect of Compensations and Superannuations granted under the General Superannuation Act, 1859.

Provision for County Treasurers' resigning, and obtaining up to Two Thirds of their Salary as Compensation for Abolition of Office or as Superannuation.

Act extends to
all Counties
except Dublin,
Dublin City,
Cork City, and
Limerick City.

18. This Act shall extend to all Counties in Ireland, except Dublin, and to all Counties of Cities and of Towns in Ireland, except Dublin, Cork, and Limerick.

Treasurers
Oath not
required from
Banking
Companies.

19. The Provisions of Statute Fourth George the Fourth, Chapter Thirty-three, Section Fourteen, as to the Treasurers Oath, 5 shall not apply to Banking Companies appointed Treasurers.

Provisions of
1 Vict. c. 54.
for Audit to
extend to
Accounts kept
by Secretaries
of Grand Juries
under this Act.

20. The Provisions of Statute First Victoria, Chapter Fifty-four, shall extend to all Accounts kept by Secretaries of Grand Juries or Banking Companies under the Provisions of this Act.

County Treasurers (Ireland).

A

B I L L

[AS AMENDED IN COMMITTEE]

To amend the Law relating to the Office
of County Treasurer in Ireland.

(Prepared and brought in by
The O'Conor Don, Colonel Greville-Nugent,
and Mr. Synan.)

Ordered, by The House of Commons, to be Printed,
16 May 1867.

[Bill 159.]

Under 1 oz.



A

B I L L

INTITULED

**An Act to make further Provision for the Despatch
of Business in the Court of Appeal in Chancery.**

WHEREAS it is expedient to make further Provision for Preamble.
the Despatch of Business in the Court of Appeal in
Chancery constituted by the Act Fourteenth and Fifteenth
Victoria, Chapter Eighty-three :

5 Be it enacted by the Queen's most Excellent Majesty, by and
with the Advice and Consent of the Lords Spiritual and Temporal,
and Commons, in this present Parliament assembled, and by the
Authority of the same, as follows :

1. All the Jurisdiction, Powers, and Authorities of the said
10 Court of Appeal under the said recited Act or under any other Act,
may (except as herein-after mentioned), be exercised either by both
of the Judges appointed under the said Act when sitting together,
or by either of the said Judges when sitting separately, or by the
Lord Chancellor when sitting with the said Judges or either of
15 them ; provided that no Decree made on the Hearing of a Cause
or on further Consideration, shall be re-heard before the said Judges
when sitting separately : Provided also, that the Lord Chancellor
[Bill 254.] shall

Jurisdiction,
&c. of Court
of Appeal
may be ex-
ercised by
One Judge,
except, &c.

2 *Court of Appeal, Chancery (Despatch of Business).*

shall and may, while sitting alone, have and exercise the like Jurisdiction, Powers, and Authorities as might have been exercised by the Lord Chancellor if this Act had not been passed.

Lord Chancellor to fix Times of sitting.

2. The Lord Chancellor shall from Time to Time fix the Times at which the Judges of the Court of Appeal appointed under the said 5 Act, or either of them, shall sit with the Lord Chancellor, and at which the said Judges shall sit together or separately; and also what Appeals, Motions, Petitions, and other Matters shall be heard and determined by the full Court, and by the said Judges sitting together or separately, and by the Lord Chancellor sitting alone or 10 with either of the said Judges.

Recited Act and this Act to be construed as One.

3. This Act and the said recited Act shall be read together as One Act.

**Court of Appeal, Chancery
(Despatch of Business). [H.L.]**

A

B I L L

INTITLED

An Act to make further Provision for
the Despatch of Business in the Court
of Appeal in Chancery.

(Brought from the Lords 15 July 1867.)

*Ordered, by The House of Commons, to be Printed,
15 July 1867.*

[Bill 254.]

Under 1 oz.

287

Court of Chancery (Ireland) Bill.

ARRANGEMENT OF CLAUSES.

Short Title ; Sect. 1.
Interpretation of Terms ; 2.
Divisions of Act ; 3.

PART I.

Appointment of a Vice-Chancellor, &c.

Appointment of Vice-Chancellor ; 4.
Appointment of Successors of Vice-Chancellor ; 5.
Jurisdiction and Powers of Vice-Chancellor ; 6.
Vice-Chancellor to sit for Lord Chancellor when required ; 7.
Rank and Precedence of Vice-Chancellor ; 8.
To hold Office during good Behaviour ; 9.
Oath of Vice-Chancellor ; 10.
Appointment of Chief Clerks ; 11.
Qualification of Chief Clerks ; 12.
Appointment of Junior Clerks ; 13.
Officers under Act not to take Fees or Profits, save Salary ; 14.
Solicitor accepting Office to cease to be Solicitor ; 15.
Tenure of Office of Chief Clerk ; 16.
Tenure of Office of Junior Clerk ; 17.
Chief and Junior Clerks to be under Control of Judge ; 18.
Chief and Junior Clerks subject to same Penalties as are imposed by
4 Geo. 4. c. 61. ;—19.
Removable by Order of Chancellor and Master of the Rolls, or Vice-
Chancellor ; 20.
Salaries of Chief and Junior Clerks ; 21.
Salary of Vice-Chancellor ; 22.
Retiring Pension to Vice-Chancellor ; 23.
Appointment of Court Keeper, Crier, and Tipstaff ; 24.

[Bill 47.]

a

Appoint-

Appointment of Chief Clerk and Junior Clerks by Lord Chancellor ; 25.

Power to appoint additional Chief or Junior Clerks ; 26.

PART II.

Masters Abolition.

Office of Master, except that of Receiver Master, abolished ; 27.

Vacancies not to be filled ; 28.

Masters may be released ; 29.

Released Masters to be entitled to Salaries ; 30.

Power to Masters to summon Parties, &c., and to settle and wind up Proceedings before them ; 31.

Power to Lord Chancellor, upon Masters Report or Certificate, to make Order for Prosecution or final Disposal of any Suit, &c., and for Payment of Costs, &c. ; 32.

Notwithstanding Suit abated or defective, Master may proceed ; 33.

Master may certify Change of Interest ; 34.

Certificate to have effect of Suggestion and Notice ; 35.

If Master unable to obtain Information, the Lord Chancellor may dispose of Suit ; 36.

Master may certify specially any Decision ; 37.

In case of Neglect, &c. of Parties or Solicitors, the Solicitor for Minors and Lunatics may proceed ; 38.

No further References to be made to Masters, but Masters to finish Business at present pending ; 39.

On Retirement of Masters, their Examiners and Clerks to be entitled to retiring Pensions of the same Amount as Salary ; 40.

Appointment of Office of Second Assistant Registrar. Option to Masters Examiners to accept it according to Seniority ; 41.

The Master's Registrars to be Three of the Junior Clerks, and to hold during good Behaviour ; 42.

Power to the Lord Chancellor to make temporary Provision for Offices vacated ; 43.

Assistant Registrar, Chief and Junior Clerks, to get Superannuations ; 44.

On Appointment of Masters or Examiners to Office, &c., the retiring Pension under this Act to be regulated by the Salary, &c. of such Office ; 45.

Appro-

- Appropriation of Masters Offices ; 46.
- Rights and Establishments of the present Masters to continue until released ; 47.
- Office of Receiver Master preserved ; 48.
- Powers of Receiver Master ; 49.
- References to Receiver Master ; 50.

PART III.

Procedure and Practice.

- Repeal of existing Acts and Portions of Acts ; 51.
- Practice of engrossing Bills on Parchment to be discontinued, and printed Bills to be filed instead ; 52.
- Writs of Subpœna to be abolished ; 53.
- Defendant to be served with a printed Bill in lieu of a Writ of Subpœna ; 54.
- The filing and Service of a printed Bill to have the same Effect as the filing and issuing of a Writ of Subpœna ; 55.
- Service of printed Bill ; 56.
- Written Copies of Bill may be served in certain Cases ; 57.
- Plaintiff to deliver printed Copies of Bill at Rate prescribed by General Order ; 58.
- Provisions as to filing, &c. Prints of original Bill extended to Amendments. In certain Cases a printed Bill may be wholly or partially amended ; 59.
- Bills of Complaint to contain concise Narratives of material Facts, &c., divided into numbered Paragraphs ; but not to contain Interrogatories ; 60.
- Next Friend of any Infant, &c., in any Suit, &c., to sign a written Authority ; 61.
- Demurrers abolished except for Want of Equity and Multifariousness ; 62.
- Pleas abolished ; 63.
- Interrogatories to be filed in the Office of the Deputy Keeper of the Rolls by the Plaintiff within Time prescribed ; 64.
- Defendant may answer without Leave within Time fixed by a General Order, but after that Time must have Leave ; 65.
- Defendant's Answer may contain not only Answer to Interrogatories, but Statements material to his Case ; 66.
- Defendant not to take Objection for Want of Parties in any Case to which Rules herein set forth shall extend ; 67.

Practice of setting down a Cause on Objection for Want of Parties abolished; 68.

Plaintiff may, on Expiration of Time for answering, but before Replication, move for a Decree or Decretal Order; Affidavits may be filed; 69.

Court may refuse such Motion or make Order for further Prosecution, &c.; 70.

Practice of excepting to Bills, Answers, &c., for Impertinence abolished. Proviso as to Costs; 71.

Court may order Defendant to produce Documents, &c., on Oath; 72.

In certain Cases Defendant, after Answer, may file Interrogatories for Examination of Plaintiff, and Defendant may exhibit a Cross Bill instead of filing Interrogatories; 73.

Upon Application of Defendant after Answer, Plaintiff may be required to produce Documents on Oath; 74.

Practice of issuing Commissions to take Answers, &c., within the Jurisdiction of the Court abolished; 75.

Masters Extraordinary to cease to be so styled, and to be designated Commissioners; 76.

Power to appoint Solicitors residing within Ten Miles of Dublin as Commissioners to take Oaths; 77.

Clerk of Affidavits and Clerk of Recognizances may administer Oaths and take Affirmations; 78.

Commissioners may be appointed to administer Oaths for the Isle of Man and the Channel Islands; 79.

Commissioners Appointment to bear a Chancery Stamp of £ , in lieu of other Charges; 80.

Nothing to lessen the Power of the Lord Chancellor. References to Masters Extraordinary in Acts to apply to Commissioners; 81.

Answers, Affidavits, &c., in Chancery, how to be sworn and taken in England, Scotland, the Channel Islands, &c.; 82.

Penalty for falsely swearing, &c.; 83.

Penalty for forging Signature or Seal of Judge, &c., empowered to administer Oaths under this Act; 84.

Answers to be filed without Oath of Messenger; 85.

Issue may be joined by filing Replication; 86.

Defendant not having been required to answer, and not answering, may move for Dismissal of Bill, for Want of Prosecution; 87.

Practice of Court as to, and Mode of examining Witnesses abolished. Court may order particular Witnesses to be examined upon Interrogatories; 88.

Judge may, upon Application, order that the Evidence as to certain Facts or Issues shall be taken *vivâ voce* at the Hearing; 89.

Evidence

Evidence as to Facts not included in such Order as in last Section to be taken by Affidavit or Examination before the Examiner ; 90.

Any Party in a Cause may, by Subpœna, require Attendance of any Witness at the Hearing ; 91.

Any Party in a Suit may, by Subpœna, require Attendance of any Witness before an Examiner ; 92.

Examination before the Examiner to be *ex parte* ; 93.

Witnesses by Affidavit, or who have been examined *ex parte* before the Examiner, may be cross-examined ; and the Party filing their Affidavits, or producing them, bound to produce them for this Purpose ; 94.

In Causes in which Issue is joined, Cross-examination to be before the Court at the Hearing ; 95.

Parties may, by written Consent, agree that Examination, Cross-examination, and Re-examination of Witnesses shall take place before the Examiner ; 96.

Power to the Court or Judge in certain Cases to direct Examination and Cross-examination to take place before the Examiner ; 97.

In Cases provided for by the last Two Sections, the Examination in Chief, Cross-examination, and Re-examination to take place before the same Examiner ; 98.

In Suits to perpetuate Testimony, Evidence to be taken according to present Practice ; 99.

Depositions to be taken down in Writing and read over to the Witness, who shall sign the same ; but if he refuse to sign, Examiner may, and state any special Matter he may think fit ; 100.

If Parties refuse to be sworn, or to answer any lawful Questions, the same Course to be pursued as is now adopted ; Proviso as to Witness demurring to Questions ; 101.

Re-examination of Witness to follow Cross-examination ; 102.

Original Depositions to be transmitted to the Office of the Clerk of Affidavits ; 103.

Commission for Examination of Witnesses dispensed with, and Examiner empowered to administer Oaths ; 104.

Affidavits to be divided into Paragraphs, numbered ; 105.

Closing Evidence, Cross-examination, and Re-examination ; 106.

Court may require the Production and oral Examination before itself of any Witness, &c., and determine Payment of the Costs ; 107.

Evidence subsequent to Hearing to be taken as the Court shall prescribe by General Orders ; 108.

Power for Court, notwithstanding any Rule, &c. to the contrary, to receive Proof by Affidavit ; 109.

Deeds and Documents referred to in Pleadings to be produced on Hearings, Motions, and other Proceedings ; 110.

Court may proceed in any Suit, &c. without Representative of deceased Person, or may appoint one ; 111.

Power to Persons interested in Questions cognizable in Court of Chancery to state special Cases for the Opinion of the Court ; 112.

How Lunatic may concur ; 113.

How married Women may concur ; 114.

How Infant may concur ; 115.

How Special Guardian to be appointed for Lunatic not found such by Commission, and for Infant, may concur ; 116.

Order to appoint Special Guardian of an Infant may be discharged by Court if made without Notice ; 117.

How such Special Cases to be intituled ; 118.

Form of Special Case ; 119.

Special Case to state how Guardian constituted, and the Concurrence of married Woman ; 120.

Special Cases to be signed by Counsel, and filed, and Appearances to be entered ; 121.

After a Special Case filed Parties to be bound by Statements after Defendants have appeared, except married Women, Infants, and Lunatics, who are not to be bound till Leave given by Court to set it down ; 122.

How Case to be set down for Hearing ; 123.

When a married Woman, Infant, or Lunatic is a Party, Application to be made to the Court for Leave to set the Case down ; 124.

Upon Hearing, Court to determine Question and make Declaration ; Proviso that Court may refuse to decide ; 125.

Protection to be afforded to Trustees by Declaration ; 126.

The Court may suspend the acting upon Declaration ; 127.

Special Case to be a *Lis pendens*, and may be registered ; 128.

Mode of identifying Documents, and Court may order Production ; 129.

Power to Master of the Rolls and Vice-Chancellors to sit at Chambers for the Despatch of Business ; 130.

Power to Lord Chancellor to provide Chambers for Master of the Rolls and Vice-Chancellor ; 131.

Judges to have same Power and Jurisdiction as in open Court ; 132.

Orders made at Chambers to be drawn up by Judges Clerks ; 133.

Orders made at Chambers to have same Force as Orders of Court, &c. ; 134.

Business

- Business to be disposed of in Chambers by the Judges ; 135.
- Judges may adjourn from open Court to Chambers, and vice versa, the Consideration of any Matter ; 136.
- Mode of proceeding before Judges at Chambers to be by Summons ; 137.
- Power to the Judges to direct what Matters, &c. shall be heard and investigated by themselves and what by their Chief Clerks ; Right to Suitor to bring any Point before the Judge ; 138.
- Power to Chief Clerks to issue Advertisements and Summonses, to administer Oaths, &c., as the Judge shall direct ; 139.
- Parties, &c. not attending liable to Process of Contempt, and to Penalties for false swearing ; 140.
- Result of Proceedings before Chief Clerk to be embodied in form of short Certificate, &c. ; 141.
- No Exceptions to lie to Certificate, &c. ; Parties at liberty to take Opinion of Judge upon any particular Point ; 142.
- Certificate, &c. signed and adopted by Judge binding on all Parties, unless discharged or varied ; 143.
- All Powers possessed by Masters to be exercised by Judges ; 144.
- Power to Judges to exercise the Powers given by Sections 31 to 38 inclusive of this Act, and to dispose of any Cause in open Court, &c. ; 145.
- Court or Judge, on Application of Executors or Administrators, may, by Order of Course, direct an Account of Debts and Liabilities to be taken ; 146.
- Certificate of Chief Clerk may be objected to by Application to the Court or Judge, of which Notice shall be given ; proceeding of the Court on such Motion ; 147.
- If Debts or certain Liabilities allowed, and not paid or provided for, Order may be made for Payment of Accounts ; 148.
- Court or Judge, on Application of Executors or Administrators, may direct Appropriation of Money to answer contingent Liability ; 149.
- Court may restrain Proceedings against Executors or Administrators ; 150.
- Protection to be afforded to Executors and Administrators ; 151.
- Creditor, &c. may summon Executor, &c., to show Cause why an Order for Administration of Personal Estate should not be granted ; Power to Judge to order Administration of such Estate ; 152.
- Copy of Summons to be filed in the Office of the Deputy Keeper of the Rolls ; 153.

Creditor, &c. may obtain an Order for Administration of Real Estate; 154.

Suit not to be dismissed for Misjoinder of Plaintiffs, but Court may modify its Decree according to special Circumstances; 155.

No Suit to be objected to because only Declaratory Order sought; 156.

Court may decide between some of the Parties without making others interested Parties to the Suit; Proviso; 157.

In case of Abatement, &c. of Suit, an Order may be made which shall have the same Effect as a Bill of Revivor; 158.

New Facts, &c. after Commencement of Suit to be introduced as Amendments to Bill, &c.; 159.

Where Account required to be taken, Court may give special Directions as to the Mode of taking same; 160.

Where Real or Personal Property is the Subject of Proceedings, Court may allow to Parties Part or the whole of the annual Income; 161.

Answer of Defendant on Motion for Injunction or Receiver, &c. to be regarded as an Affidavit; 162.

Power to obtain the Assistance of Accountants, Merchants, &c.; 163.

Taxing Master to regulate Fees to Accountants, &c., subject to Appeal; 164.

In case Directions as to Practice, &c. not followed, Court may make Order and award Costs; 165.

Costs may be taxed notwithstanding the Death of Person to whom they are awarded; 166.

Costs may be taxed notwithstanding Death of Person by whom they are payable; 167.

Summons to tax to be served in ordinary Way; 168.

Taxing Master may proceed ex parte; 169.

Taxed Costs may be recovered; 170.

Court of Chancery may summarily restrain the Bank of Ireland, &c. from permitting Transfer of Stock, &c.; 171.

Persons claiming Government Stock standing in the Name of another may sue out Writ of Injunction to restrain the Transfer; 172.

After Service of Writ Bank not to permit Transfers or Payment of Dividends; 173.

Application to Court to discharge such Writs; 174.

Persons interested in Stock may, notwithstanding such Writ, request Transfer to be made; 175.

Pending

Pending Suits to be prosecuted according to present Practice; 176.

Lord Chancellor and Judges to make General Rules and Orders for carrying Purposes of this Act into effect; 177.

Such General Rules and Orders to be laid before Parliament; 178.

PART IV.

Fees and Stamps.

Power to the Court, with the Assent of the Lords Commissioners of Her Majesty's Treasury, to allow the Chancery Fund Duties payable under 4 Geo. 4. c. 78.;—179.

Fees now payable in respect of Proceedings in Court, and accounted for to the Treasury, to be added to the Chancery Fund Duties; 180.

Fees which are now accounted for to Suitors Fee Fund to be henceforth received by Stamps; 181.

No Officer hereafter to receive Fees for his own Use, but all Officers to be paid by Salary; 182.

Officers to continue to receive Fees until Lord Chancellor shall otherwise direct, and pay them into the Suitors Fee Fund; 183.

Power to vary Fees; 184.

The Commissioners of Inland Revenue to carry General Orders relating to Fees and Stamps into effect; 185.

Commissioners of Inland Revenue may make Regulations as to Allowance for spoiled Stamps; 186.

Commissioners to have Powers in 5 & 6 Vict. c. 82.;—187.

Box Money to be henceforth received in Stamps; 188.

No Document to be received or used unless stamped; 189.

Officers guilty of Fraud or wilful Neglect in relation to Stamps liable to be dismissed; 190.

Acts and General Orders shall apply to reduced Fees; 191.

Act not to extend to Fees in Bankruptcy; 192.

PART V.

Miscellaneous.

Salaries to be payable quarterly out of Fee Fund; 193.

Dividends of Funds which have not been dealt with for Ten Years may be transferred to the Suitors Fee Fund Account; 194.

Rights of Suitors to Stock or Dividends transferred not to be affected, but to be satisfied out of the Suitors Fee Fund; 195.

Power to Parties ordered to invest in Transfer Stock to employ any licensed Stockbroker; 196.

Commencement of the Act; 197.

SCHEDULES.



A

B I L L

TO

Amend the Constitution, Practice, and Procedure of the Court of Chancery in Ireland.

WHEREAS it is expedient to alter the Constitution and Preamble.
amend the Practice and Course of Proceeding of the
High Court of Chancery in Ireland, with a view of esta-
blishing Uniformity of Practice and Procedure in the Courts of
5 Chancery in England and Ireland, *and to make Provision for the
Receipt of Fees of the Court of Chancery in Ireland by Stamps*, and
to give increased Power over Funds in that Court, the Dividends of
which have not been dealt with for a certain Period: Be it therefore
enacted by the Queen's most Excellent Majesty, by and with the
10 Advice and Consent of the Lords Spiritual and Temporal, and
Commons, in this present Parliament assembled, and by the Autho-
rity of the same, as follows:

1. This Act may be cited for all Purposes as "The Chancery Short Title.
(Ireland) Act, 1867."

15 2. In the Construction and for the Purposes of this Act the Interpretation
following Terms shall have the respective Meanings herein-after tion of
[Bill 47.] A assigned Terms.

assigned to them (if not inconsistent with the Context or Subject Matter) ; that is to say,

" Her Majesty:"	The Expression " Her Majesty " shall mean the Sovereign for the Time being :
" Chancery Court:"	The Expressions " Court of Chancery," " Chancery," and " Court " 5 shall mean the Court of Chancery in Ireland :
" Lord Chancellor:"	The Expression " Lord Chancellor " shall mean and include the Lord Chancellor, Lord Keeper, and Lords Commissioners for the Custody of the Great Seal of Ireland :
" Master of the Rolls:"	The Words " Master of the Rolls " shall mean the Master of the 10 Rolls in Ireland :
" Master:"	The Word " Master " shall mean Master in Ordinary of the Court of Chancery in Ireland :
" Master's Examiner:"	The Words " Master's Examiner " shall mean Clerk and Examiner to a Master in Ordinary of the Court of Chancery 15 in Ireland :
" Bill of Complaint:"	The Words " Bill of Complaint and Bill " shall mean also and include Information :
" Plaintiff:"	The Word " Plaintiff " shall include Informant :
" Suit:"	The Word " Suit " shall include Cause, Matter, or other Pro- 20 ceeding :
" Affidavit:"	The Word " Affidavit " shall include Declaration, Affirmation, and Attestation upon Honour ; and the Word " swear " shall include declare, affirm, and attest upon Honour :
" Lunatic:"	The Word " Lunatic " shall include Idiots and Persons of 25 unsound Mind, and whether found such by Inquisition or not :
" General Order:"	The Words " General Order," " General Order of the Court," shall mean a General Order made in the Manner herein-after provided :
" Agent " and " Town Agent."	The Words " Agent " and " Town Agent " shall mean an Agent 30 or Town Agent being a practising Solicitor.

Divisions of Act.

3. This Act shall consist of Five Parts, relating to :—

Part I. The Appointment of a Vice-Chancellor :

Part II. The Abolition of the Office of Master in Ordinary of the Court of Chancery :

Part III. Procedure and Practice :

Part IV. Stamps and Fees :

Part V. Miscellaneous Matters.

35

PART I.

Appointment of a Vice-Chancellor, &c.

PART I.

*Appointment
of Vice-
Chancellor,
&c.*Appoint-
ment of Vice-
Chancellor.
53 G. 3. c. 24.

4. It shall be lawful for Her Majesty to nominate and appoint, by Letters Patent under the Great Seal of Ireland, a fit Person, being
 5 or having been a Barrister-at-Law of *Fifteen Years* standing at the least, to be a Judge Assistant to the Lord Chancellor of Ireland in the Discharge of the Judicial Functions of his Office, such additional Judge to be called the Vice-Chancellor of Ireland: Provided that no Vice-Chancellor appointed under this Act shall during his
 10 Tenure of Office be capable of sitting in the House of Commons.

5. From Time to Time, when and as any Vacancy shall occur in the Office of the Vice-Chancellor who shall be appointed under this Act, by the Death, Resignation, or Removal from Office of such Vice-Chancellor or his Successor for the Time being, it shall
 15 be lawful for Her Majesty, by Letters Patent under the Great Seal of Ireland, to appoint a fit Person, being or having been a Barrister-at-Law of *Fifteen Years* standing at the least, to supply such Vacancy.

Appoint-
ment of Suc-
cessors of
Vice-Chan-
cellor.
5 Vict. c. 5.
s. 20.

6. Every such Vice-Chancellor shall have full Power to hear
 20 and determine all Suits which are or shall be at any Time depending in the Court of Chancery in Ireland, as a Court of Equity, or incident to any ministerial Office of the said Court, or which shall have been or shall be submitted to the Jurisdiction of the said Court or of the Lord Chancellor, by the special Authority of any
 25 Act of Parliament, as the Court shall from Time to Time by any General Order direct; and all Decrees, Orders, and Acts of such Vice-Chancellor so made or done shall be deemed or taken to be respectively, as the Nature of the Case shall require, Decrees, Orders, and Acts of the said Court of Chancery, or of such incident
 30 Jurisdiction as aforesaid, or under such special Authority as aforesaid, and shall have Force and Validity and be executed accordingly, subject nevertheless to be afterwards reversed or altered in like Manner as if they were Decrees, Orders, or Acts of the Lord Chancellor or the Master of the Rolls; and no such Decree
 35 or Order shall be enrolled until the same shall be signed by the Lord Chancellor.

Jurisdiction
and Powers
of Vice-
Chancellor.
53 G. 3. c. 24.
s. 2.
5 Vict. c. 5.
s. 22.

7. Every such Vice-Chancellor shall sit for the Lord Chancellor whenever he shall require him so to do.

To sit for
Lord Chan-
cellor when
required.
5 Vict. c. 5.
s. 23.

8. The Vice-Chancellor shall have Rank and Precedence next
 40 after the Lord Justice of the Court of Appeal in Chancery in
 [47.]

Rank and
Precedence
of the Vice-
Chancellor.

Ireland, provided the latter shall not have held the Office of Lord Chancellor of Ireland; and in case the Lord Justice of the Court of Appeal for the Time being shall have held the Office of Lord Chancellor of Ireland, then the Vice-Chancellor shall have Rank and Precedence next after the Chief Baron of Her Majesty's Court of Exchequer in Ireland. 5

To hold
Office during
good Be-
haviour.
5 Vict. c. 5.
s. 27.

9. Every Vice-Chancellor shall hold his Office during his good Behaviour: Provided always, that it shall be lawful for Her Majesty to remove any such Vice-Chancellor from his Office upon an Address of both Houses of Parliament. 10

Oath of
Vice-Chan-
cellor.
5 Vict. c. 5.
s. 28.

10. Every Vice-Chancellor shall, previous to his executing any of the Duties of his Office, take the following Oath, which the Lord Chancellor or the Master of the Rolls for the Time being is hereby respectively authorized and required to administer:

‘ I do solemnly and sincerely promise and swear, 15
‘ That I will duly and faithfully, and to the best of my Skill and
‘ Power, execute the Office of Vice-Chancellor of Ireland.
‘ So help me GOD.’

Appoint-
ment of
Chief Clerks.
15 & 16 Vict.
c. 80. s. 16.

11. It shall be lawful for the Master of the Rolls and the Vice-Chancellor for the Time being respectively, with the Approbation 20
of the Lord Chancellor, to appoint One Chief Clerk each, to be respectively attached to the Court of each such Judge and his Successors in Office, for the Purpose of assisting in the general Business of each Court and the Suits belonging thereto, and on any Vacancy in such Office of Chief Clerk to supply such Vacancy. 25

Qualifica-
tion of Chief
Clerks.
15 & 16 Vict.
c. 80. s. 17.

12. No Person shall be appointed Chief Clerk to the Master of the Rolls or to the Vice-Chancellor unless he shall have been admitted on the Roll of Solicitors or Attorneys in One of the Superior Courts at Dublin, and shall have practised, as Solicitor or Attorney for the Period of *Ten Years* at least immediately pre- 30
ceding his Appointment, or unless he shall have held the Office of Master's Examiner in the Court of Chancery in Ireland.

Appoint-
ment of
Junior
Clerks.
15 & 16 Vict.
c. 80. s. 18.

13. It shall be lawful for the Master of the Rolls and the Vice-Chancellor respectively, subject to the Provision herein-after con-
tained as to the Appointment of the First Junior Clerks, to appoint 35
Two Junior Clerks to the Chief Clerk of his Court, and on any Vacancy to supply such Vacancy.

Officers
under Act
not to take

14. If any Person who shall accept any Office under this Act shall engage in any other Employment whatever whilst he holds
such

such Office, or shall receive any Sum of Money or Benefit, other than his Salary, and what may be allowed or directed to be taken by him under any Act of Parliament or Order of the said Court, for any Act done or pretended to be done, or any Attendance given or
 5 pretended to be given, either with or without the Consent or Direction or pretended Consent or Direction of any Judge of the Court, in relation to or arising out of any Proceeding in his Office or in any Office of or connected with the Court of Chancery ; or if such Person, having been a Solicitor or Attorney, shall directly or indirectly
 10 receive or secure to himself any continuing Benefit from any Business or Firm in which he may have been engaged previously to his Appointment to such Office, the Person so offending may be removed from his Office by Order of the Lord Chancellor, and if so removed shall be rendered incapable of afterwards holding any
 15 Office, Situation, or Employment in the said Court.

Fees or Profits, save Salary.
 15 & 16 Vict. c. 80. s. 19.

15. Every Solicitor or Attorney who shall be appointed to and shall accept Office under this Act shall cease to be an Attorney or Solicitor, and shall forthwith procure himself to be struck off the Roll of Solicitors of the Court of Chancery, and off the Roll of
 20 any of Her Majesty's Courts of Record at Dublin on which his Name may be.

Solicitor accepting Office to cease to be Solicitor.
 15 & 16 Vict. c. 80. s. 20.

16. Every Chief Clerk shall, subject to the Power of Removal herein-after contained, hold his Office during his good Behaviour, and so long as he shall personally attend to the Execution of the
 25 Duties of his Office.

Tenure of Office of Chief Clerk.
 15 & 16 Vict. c. 80. s. 21.

17. Every Junior Clerk shall, except in the Cases herein-after specially provided, hold his Office at the Pleasure of the Judge to whose Court he shall be attached.

Tenure of Office of Junior Clerk.
 15 & 16 Vict. c. 80. s. 22.

18. Subject to the Regulations which shall be prescribed by the
 30 General Orders of the Court, the Chief Clerks and Junior Clerks shall be under the Control of the Judge to whose Court they shall respectively be attached, and shall attend at such Places, during such Times, and for such Hours in each Day, and perform such Duties, as such Judge shall from Time to Time direct.

Chief and Junior Clerks to be under Control of Judge.
 15 & 16 Vict. c. 80. s. 23.

35 19. Every Chief Clerk and every Junior Clerk shall be subject and liable to such and the same Obligations, Prohibitions, and Penalties, so far as the same are not inconsistent with the Provisions of this Act, as are by an Act passed in the Session holden in the Fourth Year of the Reign of King George the Fourth enacted

Chief and Junior Clerks subject to the same Penalties as are imposed by 4 G. 4. c. 61.

with respect to Persons holding any of the Offices in the Court of Chancery therein specified, in the same Manner as if the Enactments therein contained relating to such Officers of the said Court respectively were here repeated in relation to such Chief and Junior Clerk.

5

Removable
by Order of
Chancellor
and Master
of Rolls or
Vice-Chan-
cellor.

15 & 16 Vict.
c. 80. s. 25.

Salaries of
Chief and
Junior
Clerks.

15 & 16 Vict.
c. 80. s. 44.

20. It shall be lawful for the Lord Chancellor, with the Concurrence of the Judge to whose Court any Chief Clerk shall be attached, by an Order to remove any such Chief Clerk, without stating any Cause for such Removal.

21. There shall be paid to every such Chief Clerk, in the first 10 instance, the net yearly Salary of *Eight hundred Pounds*, to be increased every Year of Service by the net annual Sum of *Twenty-five Pounds* until the yearly Salary of such Chief Clerk shall amount to the net yearly Salary of *One thousand Pounds*; and to every such Junior Clerk, in the first instance, the net yearly Salary of 15 *Two hundred and fifty Pounds*, to be increased in like Manner by the net annual Sum of *Ten Pounds* until the yearly Salary of each Junior Clerk shall amount to the net yearly Salary of *Three hundred and fifty Pounds*; and the said Salaries respectively shall be free from all Taxes and Deductions, except in respect of Income Tax, 20 and shall be paid out of the Funds and in the Manner herein-after provided; but no such Increase of Salary shall be made without a Certificate from the Judge to whose Court such Chief or Junior Clerk shall be attached that he has conducted himself in his Office to the entire Satisfaction of such Judge.

25

Salary of
Vice-Chan-
cellor.

22. There shall be paid to the Vice-Chancellor for the Time being the net yearly Salary of *Four thousand Pounds*, which Salary shall issue and be payable out of and charged upon the Consolidated Fund of the United Kingdom of Great Britain and Ireland, and shall be free from all Taxes and Deductions, except in respect 30 of Income Tax, and shall be paid quarterly on the First Day of January, the First Day of April, the First Day of July, and the First Day of October in every Year, by equal Portions, and the first of such Payments, or a proportionate Part thereof, to be computed from the Time of the Appointment of such Vice-Chancellor, 35 shall be made on such of the said Days of Payment as shall first happen after the Date of such Appointment; and upon the Resignation, Death, or Removal from Office of any such Vice-Chancellor, such Vice-Chancellor, his Executors or Administrators, shall be paid such proportionate Part of his Salary as shall have accrued from the 40 Time of the Commencement of such Salary, or from the last quar-
terly

terly Day of Payment thereof, to the Time of such Resignation, Death, or Removal from Office.

23. Her Majesty, by Letters Patent under the Great Seal of the United Kingdom, may grant unto any Person executing the Office of Vice-Chancellor, in pursuance of this Act, an Annuity not exceeding to commence immediately after the Period when the Person to whom such Annuity shall be granted shall resign the said Office of Vice-Chancellor, and to continue from thenceforth during the natural Life of the Person to whom the same shall be granted; and such Annuity shall be issued and payable out of and charged upon the Consolidated Fund of the United Kingdom of Great Britain and Ireland; and such Annuity shall be paid quarterly, free from all Taxes and Deductions whatsoever, except Income Tax, by equal Portions, on the same quarterly Days as the Salary of such Vice-Chancellor was payable; and the first quarterly Payment, or a proportionate Part thereof, to be computed from the Time of the Resignation of the said Office, shall be made on such of the same Days as shall happen next after the Resignation of the said Office; and the Executors and Administrators of the Person to whom the same Annuity shall be granted as aforesaid shall be paid such proportionate Part of the said Annuity as shall accrue from the Commencement or the last quarterly Payment thereof, as the Case may be, to the Day of his Death; provided that it shall be lawful for Her Majesty, in and by such Letters Patent, to limit the Duration of Payment of such Annuity or any Part thereof to such Periods of Time during the natural Life of such Person in which he shall not exercise any Office of Profit under Her Majesty, so that such Annuity, together with the Salary and Profits of such other Office, shall not exceed in the whole the said Sum of ;
- 30 provided also, that no Annuity granted to any Person having executed the Office of Vice-Chancellor under this Act shall be valid unless such Person shall have continued in the said Office, or in the said Office and the Office of a Judge in One or more of Her Majesty's Superior Courts, or Judge of Her Majesty's Court of Probate
- 35 in Ireland, or Judge of the Landed Estates Court, or of Master in Ordinary of the said Court of Chancery, for the Period of Fifteen Years, or shall be afflicted with some permanent Infirmary disabling him from the due Execution of his Office, which shall be distinctly recited in the said Grant.

Retiring Pension to Vice-Chancellor.

5 Vict. c. 5. s. 36.

- 40 24. It shall be lawful for the Vice-Chancellor from Time to Time to appoint a Court Keeper, Crier, and Tipstaff, to be attached to his Court, and the Salaries of the Persons so to be appointed shall be of such respective Amounts as the Lord Chancellor

Appointment of Court Keeper, Crier, and Tipstaff.

and the Commissioners of Her Majesty's Treasury shall in each Case determine ; and such Salaries shall be paid to each Person so to be appointed out of the Funds herein-after mentioned.

Appoint-
ment of a
Chief Clerk
and Junior
Clerks by
Lord Chan-
cellor.

25. If it shall appear to the Lord Chancellor that the Business of his Court shall render it expedient that a Chief Clerk and Junior 5 Clerks should be appointed, to be attached to the Lord Chancellor and his Successors in Office, for the Purpose of assisting in the general Business of his Court and the Suits belonging to his Court, and in any Matters belonging to or reserved for his Jurisdiction, it shall be lawful for the Lord Chancellor, with the Assent 10 of the Commissioners of Her Majesty's Treasury, to appoint One Chief Clerk, having such Qualification as is herein-before prescribed in reference to the Chief Clerks of the Master of the Rolls and Vice-Chancellor respectively, and Two Junior Clerks, and on any Vacancy in such Offices to supply such Vacancy ; and every Chief 15 Clerk and Junior Clerk so to be appointed shall hold his Office by the like Tenure, and shall have the like Powers, and shall be entitled to the like Salaries, Allowances, and Benefits, and shall be subject to the like Obligations, Prohibitions, and Penalties as a Chief Clerk or Junior Clerk attached to the Master of the Rolls or 20 the Vice-Chancellor, but shall be under the Control of the Lord Chancellor, and shall be removable by an Order of the Lord Chancellor and the Lord Justice of the Court of Appeal, without stating any Cause for such Removal.

Power to
appoint
additional
Chief or
Junior
Clerks.

26. In case it shall appear to the Lord Chancellor that the 25 State of Business in the Court renders it expedient to appoint an additional Chief Clerk or additional Junior Clerks to the Master of the Rolls and the Vice-Chancellor, or to either of them, it shall be lawful for the Lord Chancellor, with the Consent of the Master of the Rolls and the Vice-Chancellor, or One of them, and 30 subject to the Approbation of the Commissioners of Her Majesty's Treasury, to direct that there shall be attached to the Master of the Rolls and the Vice-Chancellor, or to either of them, as the Case may be, such additional Chief Clerk or additional Junior Clerks as aforesaid ; and thereupon it shall be lawful for the Judge to whose 35 Court such Chief Clerk or Junior Clerk shall be attached to appoint in manner aforesaid such additional Chief Clerk or Junior Clerk, as the Case may be, and on any Vacancy in such Office of additional Chief Clerk or Junior Clerks to supply such Vacancy ; and every Chief Clerk or Junior Clerk so appointed shall possess 40 the like Qualifications, and shall hold his Office by the like Tenure, and shall have the like Powers, and shall be entitled to the like Salaries,

Salaries, Allowances, and Benefits, and subject to the like Obligations, Prohibitions, and Penalties, as a Chief Clerk or Junior Clerk attached to the Master of the Rolls or the Vice-Chancellor.

PART II.

Masters Abolition.

PART II.

Masters Abolition.

5

27. The Office of Master in Ordinary of the said Court of Chancery, except the Office of Receiver Master of the said Court, which shall be maintained for the Performance of certain special Duties, as herein-after provided, shall be and the same is hereby
10 abolished, but reserving and subject to the Execution by the present Masters in Ordinary of the said Court whose Offices are hereby abolished of the Duties herein-after provided for; and until they are released under this Act they shall for the Performance of such Duties continue to have all the Powers conferred upon them
15 by any Act of Parliament, or otherwise vested in them.

Office of Master, except that of Receiver Master, abolished.
15 & 16 Vict. c. 80. s. 1.

28. No Vacancy which has already occurred or may hereafter occur in the Office of Master in Ordinary of the said Court, other than that of Receiver Master, shall be filled up; and no Vacancy which has already occurred or may hereafter occur in the Office
20 of Examiner, Assistant Clerk, or Registrar to such Master, other than the Examiner or Assistant Clerk of the Receiver Master, shall be filled up, save in the temporary Manner herein-after provided.

Vacancies not to be filled.
15 & 16 Vict. c. 80. s. 2.

29. Whenever in the Judgment of the Lord Chancellor from
25 the State of Business in the said Court any Master whose Office is hereby abolished can be spared, it shall be lawful for the Lord Chancellor to release such Master from his Duties as such, at such Time or Times as to him shall seem meet.

Masters may be released.
15 & 16 Vict. c. 80. s. 3.

30. Each One of the Masters so to be released shall nevertheless continue entitled to receive during his Life, by way of retiring Pension, the full Amount of his Salary as such Master; and the Salaries or retiring Pensions payable to the Masters so to be released shall be payable out of the same Funds, on the Days, and in the same Manner in all respects as their present Salaries.

Released Masters to be entitled to Salaries.
15 & 16 Vict. c. 80. ss. 5. and 6.

31. In order as expeditiously as may be to wind up all the Suits which may from Time to Time be depending before or have been referred to any of the Masters whose Office is hereby abolished, it shall be lawful for every such Master, at any Time after the passing
[47.] B of

Power to Masters to summon Parties, &c., and to settle and wind up

Proceedings
before them.
15 & 16 Vict.
c. 80. s. 7.

of this Act, to summon as he shall deem fit all or any of the Parties to any Suit so depending, or referred, or their Solicitors, and thereupon to proceed with such Suit, and give such Directions and make such Order as he may think necessary for the Purpose of settling and winding-up the same; but any such Order shall be subject to be 5 discharged or varied by the Lord Chancellor upon Application made for that Purpose; and the Master shall be at liberty to proceed for the Purposes aforesaid in the Absence of any of the Parties or Solicitors neglecting or refusing to attend the Summons.

Power to
Lord Chan-
cellor, upon
Master's
Report or
Certificate,
to make
Order for
Prosecution
or final Dis-
posal of any
Suit, &c.,
and for Pay-
ment of
Costs, &c.
15 & 16 Vict.
c. 80. s. 8.

32. In case such Master shall be unable, by reason of the Con- 10 duct of Parties or otherwise, to finally dispose of any Suit, he shall be at liberty to dispose of any Part thereof within his Power, and to report or certify on the whole of the Case; and upon such Report or Certificate the Lord Chancellor shall make such Order as he shall think proper on all or any of the Parties, for the further 15 Prosecution of the Suit, or for the final Disposal thereof, and for the Payment of the Costs thereof, including any of the Costs which may have been incurred by reason of the Conduct of the Parties.

Notwith-
standing
Suit abated
or defective,
Master may
proceed.
17 & 18 Vict.
c. 100. s. 1.

33. Upon a Suit in which any Proceeding may from Time to Time be depending before any such Master becoming abated by 20 Death, Marriage, or otherwise, or becoming defective by reason of some Change or Transmission of Interest or Liability, it shall be lawful for such Master, notwithstanding that the Suit has become abated or defective, to summon, as he shall deem fit, all or any of the Parties to the Suit or Proceeding, or their or any of their 25 Solicitors, and to require and obtain from them or any of them such Information as may to him seem necessary or proper respecting the Abatement of the Suit, or respecting the same having become defective, and the Change or Transmission of Interest or Liability, and respecting the Person or Persons by and against whom the Suit 30 and Proceedings ought to be revived, or the Decree or Order carried on and prosecuted, for which Purpose such Master shall be at liberty to proceed in the Absence of any of the Parties or Solicitors neglecting or refusing to attend to his Summons.

Master may
certify
Change of
Interest.
17 & 18 Vict.
c. 100. s. 2.

34. In case such Master shall by the Means aforesaid or other- 35 wise obtain sufficient Information for his Guidance in this Behalf, he shall be at liberty to certify the Abatement of the Suit, or that the same has become defective, and the Change or Transmission of Interest or Liability.

Certificate to
have effect
of Sugges-

35. The Master's Certificate shall be filed, and Notice thereof 40 served by and upon such Person as the Master may direct; and the Person

Person so served shall from the Time of such Service being made become a Party to the Suit, and be bound in all respects in the same Manner as if an Order of Revivor or a Supplemental Decree had been made upon a Bill or Cause Petition duly filed for that Purpose.

36. In case such Master shall not be able to obtain sufficient Information for his Guidance in certifying as aforesaid, he shall be at liberty to certify the Abatement of the Suit, or that the same has become defective, and the Change or Transmission of Interest or Liability, and that by reason thereof he is unable to dispose of the Proceeding pending before him in the Suit; upon which Certificate the Lord Chancellor shall make such Order as he shall think proper on all or any of the Parties, for the further Prosecution of the Suit, or for the final Disposal thereof, and for the Payment of the Costs thereof, including any of the Costs which may have been incurred by reason of the Conduct of the Parties.

37. In any Suit which may from Time to Time be pending before or have been referred to any Master, he shall be at liberty to certify specially any Decision at which he may arrive, or any other Matter relating thereto, in order to obtain a Decision or Direction by or from the Lord Chancellor for his Guidance in the further Proceedings, or to enable any Party to obtain the Opinion of the Court with reference thereto.

38. In the event of the Parties or their Solicitors refusing or neglecting, within a Time to be fixed by the Master, to file or to bring before the Lord Chancellor any such Certificate or Report as aforesaid, or to serve any Order when drawn up as aforesaid, then, by the Direction of the Master, the Certificate or Report may be filed or brought before the Lord Chancellor, or the Order may be served by the Solicitor for the Time being in the Matter of Minors and Lunatics; and the Lord Chancellor is hereby empowered to order Payment of the Costs and Expenses of the Solicitor in the Matter of Minors and Lunatics out of such of the Funds in the Suit or by such Parties as to him shall seem just; and in case Payment thereof cannot be obtained by any of the Means aforesaid, the same, by the Direction of the Lord Chancellor, may be paid out of the Suitors Fee Fund.

39. From and after the *First Day of* *One thousand* No further
eight hundred and no Reference shall be made to References
any of the Masters in Ordinary of the said Court, except in Suits to be made
pending at the Time appointed for the Commencement of this Act, or to Masters,
[47.] B 2 in but Masters
to finish

Business at
present
pending.

in Suits in which, from some previous Reference having been made in some other Suit connected therewith, the Court may think it expedient to make such Reference, and, except in the Case of the Receiver Master, such References as are herein-after directed : Provided always, that the said Receiver Master and the other 5 Masters in Ordinary of the said Court, until they shall have been removed, by Resignation, Death, or otherwise, or released from their Duties under this Act, shall prosecute all the Business which on the *First Day of* *One thousand eight hundred and* shall be pending before them, and also all the 10 References which shall be made under Decrees, Decretal or other Orders of the Court in Suits commenced before the last-mentioned Day, or which shall be made in relation to such excepted Matters as aforesaid, and the same, if necessary, shall from Time to Time be distributed amongst or prosecuted by the Masters, or such of them 15 as shall then remain, and the said Receiver Master, and his Successors in Office, in such Manner as the Lord Chancellor shall direct ; and the Powers and Authorities now vested in them are hereby reserved to them for the Purpose of executing and performing all the Duties, Matters, and Things which may be still referred to 20 them, or which they may be lawfully called upon to perform.

On Retirement of Masters, their Examiners and Clerks to be entitled to retiring Pensions of the same Amount as Salary.

40. Every Person who on the *First Day of* *One thousand eight hundred and* held the Office of Examiner or Assistant Clerk to any of the Masters in Ordinary of the said Court of Chancery whose Office is by this Act abolished, 25 shall, upon the Master to whom he shall be such Examiner or Assistant Clerk being released from the Duties as such Master under the Authority of this Act, or upon the Death or Resignation of any such Master previously to his being so released, continue to be deemed an Officer of the Court of Chancery, and shall hold by 30 the same Tenure, and be entitled to the like Salary and Superannuation Allowance, as if the Master to whose Office he is attached had not resigned or died, and shall, unless or until he shall retire pursuant to the Provisions of the "Court of Chancery (Ireland) Regulation Act, 1850," discharge such Duties connected with the 35 Business of the Court, or the Arrangement and Classification of the Records of the said Court, as shall be assigned to him by any General Order of the Court, and every such Examiner or Assistant Clerk, who shall decline to discharge such Duties when called upon to do so, shall forfeit any Benefits to which he would be otherwise 40 entitled under this Act.

Appointment of Office of

41. There shall be attached to the said Court a Second Assistant Registrar, who shall hold his Office upon the same Terms and with such Powers in all respects as are provided by a Statute passed in the

- the Fourth Year of His late Majesty King George the Fourth, intituled "An Act for the better Administration of Justice in the " Court of Chancery in Ireland," in relation to the Principal Registrars of the said Court, and every such Assistant Registrar
- 5 shall discharge such Duties in connexion with the Business of the said Court as shall be assigned to him by General Order of the Court; and there shall be paid to every such Assistant Registrar the net yearly Salary of *Eight hundred Pounds*, to be increased every Year of Service by the net annual Sum of *Twenty-*
- 10 *five Pounds* until the net yearly Salary of such Assistant Registrar shall amount to the net yearly Salary of *One thousand Pounds*, but so that no such Increase shall take place without a Certificate of the Lord Chancellor to the like Effect as is provided in the Case of the Chief and Junior Clerks to be appointed under this Act, which
- 15 Salary shall be paid free from all Deductions, except in respect of Income Tax; and the Lord Chancellor shall tender to each of the Master's Examiners whose Office is abolished by this Act, according to his Seniority in Office, the Option of accepting the said Office of Assistant Registrar; and if such Master's Examiner shall, for
- 20 One Month after such Option has been tendered to him, neglect or decline to avail himself thereof, then the Lord Chancellor shall tender the like Option to the Examiner next in succession as aforesaid, and so toties quoties; and in case any of the said Examiners shall avail himself of the said Option, the Lord Chancellor shall
- 25 thereupon appoint such Person to be an Assistant Registrar of the Court, pursuant to this Act; and the Court shall have Power, by General Orders, to regulate the Distribution of Business among the Offices of the said Masters, and to attach any Officer at present attached to any Master in Ordinary, whose Office is by this Act
- 30 abolished, to any other Master, and in all respects to prescribe and regulate the Duties of such Officers; and in case all the Masters Examiners shall neglect or decline to avail themselves of the said Option, it shall be lawful for the Lord Chancellor to appoint some fit or proper Person, being a practising Barrister of at least Ten
- 35 Years Standing, or having such Qualification as is herein-before prescribed in respect of Persons to be appointed Chief Clerks of the Master of the Rolls and the Vice-Chancellor, to fill the Office of Assistant Registrar of the said Court, pursuant to this Act: Provided always, that nothing herein contained shall be deemed
- 40 to affect the Right of Succession of the Officers in the Registrar's Office, as now established, to any Office existing previous to the passing of this Act, and that from Time to Time when any Vacancy shall occur in the said Office of Assistant Registrar there shall be the like Right of Succession thereto in said Officers as there now is
- 45 to such existing Offices.

Second
Assistant
Registrar.

Option to
Masters
Examiners
to accept it
according to
Seniority.

The Master's Registrars to be three of the Junior Clerks, and to hold during good Behaviour.

42. The Registrars who at the Time of the passing of this Act shall be attached to the Masters in Ordinary, whose Offices are by this Act abolished, shall be Three of the Junior Clerks to be appointed under this Act, and shall be attached to such Court as the Lord Chancellor shall, by an Order under his Hand, declare : 5
 Provided always, that every Registrar so becoming a Junior Clerk shall hold his Office during his good Behaviour, and so long as he shall personally attend to the Duties of his Office, but shall be removable by the Lord Chancellor, with the Concurrence of the Judge to whose Court he shall be attached, without stating any 10
 Cause for such Removal.

Power to the Lord Chancellor to make temporary Provision for Offices vacated.

43. Upon the Office of Examiner, Assistant Clerk, or Registrar becoming vacant, it shall be lawful for the Lord Chancellor, with the Assent of the Lords Commissioners of Her Majesty's Treasury, to make temporary Provision for the Discharge of the Duties of 15
 the Office so vacated, by employing some other Officer or Clerk of the Court of Chancery other than those attached to the Office of the Receiver Master, or by appointing some fit Person to fill such Office, until the Master in whose Office such Vacancy shall occur shall be removed by Resignation, Death, or otherwise, or 20
 shall have been released from his Duties under this Act; and every Person so to be employed by the Lord Chancellor shall, so long as he shall be employed, receive such Remuneration as the Lord Chancellor and Lords Commissioners of Her Majesty's Treasury shall fix, and shall be liable to perform the like Duties, 25
 and shall be subject to the same Obligations, Prohibitions, and Penalties, as the Officer in whose Place he shall be employed.

Assistant Registrar, Chief and Junior Clerks, to get Superannuations.

44. Every such Assistant Registrar and Chief Clerk to be appointed pursuant to this Act shall be deemed to be an Officer of the Court of Chancery in Ireland, and shall be entitled to the like retiring or Super- 30
 annuation Allowances and upon the same Conditions as are provided for Officers by the Thirty-eighth Section of the "Court of Chancery (Ireland) Regulation Act, 1850;" and every Junior Clerk to be appointed pursuant to this Act shall be entitled to the like Superannuation Allowance and upon the same Conditions as are provided 35
 by the Thirty-ninth Section of the "Court of Chancery (Ireland) Regulation Act, 1850;" and the said retiring and Superannuation Allowances shall be paid out of the same Funds as are in the said Act specified, subject and without Prejudice to the Payment of all Salaries and other Sums of Money by any former Act or Acts now in force 40
 directed or authorized to be paid thereout: Provided always, that in case any Person at present holding any Office or Employment in the
 Court

Court of Chancery shall be appointed to the Office of Assistant Registrar, Chief Clerk, or Junior Clerk, under this present Act, the Period during which he has served in the said first-mentioned Office or Employment shall be taken into account and allowed in estimating
5 the Period at which he shall be entitled to retire from the Office of Assistant Registrar, Chief Clerk, and Junior Clerk, pursuant to this Act, and the Amount of the Superannuation Allowance to which he shall be entitled.

45. If at any Time hereafter any of the Masters in Ordinary of
10 the said Court whose Office is hereby abolished, or any of their Examiners, Assistant Clerks, or Registrars, shall be appointed to and shall accept any Office or Employment under this Act, or connected with any Court of Law or Equity, or under the Crown, or in any Public Department under the Crown, and if the Salary
15 attached to such Office or Employment, or any retiring Pension or Allowance in respect thereof, shall equal or exceed in Amount the retiring Pension or Compensation payable to such Master, Examiner, Assistant Clerk, or Registrar under this Act, such last-mentioned retiring Pension or Compensation shall during the
20 Continuance of such Master, or such Examiner, Assistant Clerk, or Registrar, in such Office or Employment, or so long as he shall be in the Receipt of any retiring Pension or Allowance in respect thereof equal to or greater than his retiring Pension or Compensation under this Act, cease to be payable to such Master, or such
25 Examiner, Assistant Clerk, or Registrar, as the Case may be; and if the Salary attached to such Office, or the retiring Pension or Allowance in respect thereof, shall be less than the Amount of such Master's retiring Pension, or the Compensation payable under this Act to such Examiner, Assistant Clerk, or Registrar, such Salary,
30 retiring Pension or Compensation under this Act shall be reduced by the Amount of such Salary or of such retiring Pension or Allowance, as the Case may be.

On Appoint-
ment of
Masters or
Examiners
to Office, &c.,
the retiring
Pension
under this
Act to be
regulated by
the Salary,
&c. of such
Office.
15 & 16 Vict.
c. 80. s. 50.

46. Such of the Masters Offices as shall not be assigned by the
Lord Chancellor as Chambers for the Masters of the Rolls and Vice-
35 Chancellors respectively, under the Provisions herein-after contained, shall be appropriated to such other Purposes connected with the Court of Chancery as the Lord Chancellor may from Time to Time direct.

Appropriation of Mas-
ters Offices.
15 & 16 Vict.
c. 80. s. 51.

47. Nothing herein contained shall prejudice or affect the Title
40 of the present Masters in Ordinary of the said Court whose Offices are hereby abolished to the Salaries payable to them as such Masters unless and until they shall be respectively released under

Rights and
Establish-
ments of the
present Mas-
ters to con-

tinue till
released.
15 & 16 Vict.
c. 80, s. 58.

this Act, or the Power of Her Majesty to order a retiring Allowance to any of them, who may be or become afflicted with some permanent Infirmary disabling him from the due Execution of his Office, and who shall be desirous of resigning the same, or the Power of the Lord Chancellor to order a retiring Allowance to any 5 of their Examiners and Clerks in the like event; and subject to the Provisions herein contained, every of the said Masters in Ordinary of the Court, until released under this Act, shall have the same Establishment of Officers whose Salaries and Compensation shall be payable out of the same Funds as the Salaries and Com- 10 pensations of such Officers are now payable, and all the Expenses attending the Establishment of the Masters Offices shall be paid in like Manner as such Expenses are now paid.

Office of
Receiver
Master
preserved.

48. The Office of Receiver Master shall be maintained for the Discharge of the Duties herein specified; and Gerald Fitz- 15 gibbon, Esquire, the present Receiver Master of the said Court, shall be the Receiver Master of the said Court, pursuant to this Act, and the said Gerald Fitzgibbon, and his Successors in the said Office, shall discharge the Duties herein-after specified: Provided always, that nothing in this Act contained shall be held to repeal 20 or affect the Provisions of any Act or Acts, or any Law or Usage, relating to the Appointment, Salary, and retiring Annuities of the said Receiver Master, or his Successors in Office, or the Provisions of any Act or Acts relating to the Master's Examiner or Assistant Clerk, or the Establishment or Office of the said Master, or his 25 Successors in Office.

Powers of
Receiver
Master.

49. The said Receiver Master, and his Successors in Office, shall, subject to any General Orders, continue to have, exercise, and perform all such Authorities, Powers, and Duties as shall upon the said First Day of One thousand eight hundred 30 and be possessed, exercised, and performed by him, or any other Master in Ordinary of the said Court, with reference to Receivers, Receivers Accounts, and the Management of Estates under Receivers, and all other Matters relating to Receivers, and also all such and such other Authorities, Powers, and Duties as shall 35 on the said First Day of One thousand eight hundred and be possessed, exercised, and performed by, or shall be or have been imposed or conferred on him, or on any other Master, with respect to the auditing or keeping of any Accounts, or with respect to Inquiries in Lunacy Matters, or the Discharge of any 40 other Duties in relation thereto respectively: Provided always, that nothing in this Act contained shall affect the Power of the said Receiver Master in relation to the winding-up of any Suits which

which on the First Day of One thousand eight hundred
and may be pending in his Office.

50. It shall be lawful for the Lord Chancellor, the Master of the Rolls, the Vice-Chancellor, the Court of Appeal in Chancery, and the Masters to make such References to the said Receiver Master under this Act, and his Successors in Office, in relation to Receivers and the auditing of Accounts, and the Management and letting of Estates, as the Court shall by any General Orders direct, anything in this Act to the contrary notwithstanding.

References
to Receiver
Master.

10

PART III.

Procedure and Practice.

PART III.
*Procedure
and
Practice.*

51. From and after the Time appointed for the Commencement of this Act, the Acts and Parts of Acts mentioned in Schedule (A.) to this present Act shall be, and the same are hereby repealed, except in so far as may be necessary for the Purpose of supporting, continuing, or prosecuting any Suit or Proceeding begun before the Time appointed for the Commencement of this Act.

Repeal of
existing
Acts and
Portions of
Acts.

52. From and after the Time appointed for the Commencement of this Act, the Practice of engrossing on Parchment Bills of Complaint and of filing such Engrossments shall be discontinued; and the Deputy Keeper of the Rolls shall receive and file a printed Bill of Complaint in lieu of an Engrossment thereof, in the same Manner as he now receives such Engrossment.

Practice of
engrossing
Bills on
Parchment
to be discontinued, and
printed Bills
to be filed
instead.
15 & 16 Vict.
c. 86. s. 1.

53. The Writ of Subpœna to appear to and answer a Bill of Complaint in the said Court shall be abolished.

Writs of
Subpœna to
be abolished.
15 & 16 Vict.
c. 86. s. 2.

54. In lieu of serving the Defendant to a Bill of Complaint in the said Court with a Writ of Subpœna to appear to and answer the same, the Defendant shall be served with a printed Bill of Complaint, with an Endorsement thereon, in the Form or to the Effect set out in the Schedule (B.) to this Act, with such Variations as Circumstances may require, such printed Bill of Complaint so to be served being previously stamped with a proper Stamp by the Deputy Keeper of the Rolls in Ireland, indicating the filing of such Bill of Complaint, and the Date of the filing thereof.

Defendant
to be served
with a
printed Bill
in lieu of a
Writ of
Subpœna.
15 & 16 Vict.
c. 86. s. 3.

55. The filing of a printed Bill of Complaint in the said Court shall have the same Effect as the filing of a Bill of Complaint in the same Court and the issuing of a Subpœna thereon respectively now have, and the Service upon the Defendant of a printed Bill of

The filing
and Service
of a printed
Bill to have
the same
Effect as the

filing and
issuing of
a Writ of
Subpœna.
15 & 16 Vict.
c. 86. s. 4.

Complaint so filed; with such Endorsement thereon, so stamped as aforesaid, shall have the same Effect as the Service on him of a Writ of Subpœna now has, and shall entitle the Plaintiff in such Suit to such Remedies for Default of Appearance and otherwise as he is now entitled to in case of due and proper Service of a Subpœna 5 to appear to and answer a Bill of Complaint.

Service of
printed Bill.
15 & 16 Vict.
c. 86. s. 5.

56. The Service upon any Defendant of a printed Copy of a Bill of Complaint in the said Court shall be effected in the same Manner as Service of a Writ of Subpœna to appear to and answer a Bill of Complaint is now effected, save only that it shall not be necessary 10 to produce the original Bill, which will be on the Files of the Court; provided that the Court shall be at liberty to direct substituted Service of such printed Bill in such Manner and in such Cases as it shall think fit.

Written
Copies of
Bill may be
served, in
certain
Cases.
15 & 16 Vict.
c. 86. s. 6.

57. Notwithstanding the Provisions herein-before contained, the 15 Deputy Keeper of the Rolls in Ireland may receive and file a written Copy of any Bill of Complaint, praying a Writ of Injunction or a Writ of Ne exeat regno, upon the personal Undertaking of the Plaintiff or his Solicitor to file a printed Copy of such Bill within *Fourteen Days*, and every Bill of Complaint so filed shall be 20 deemed and taken to have been filed at the Time of filing the written Copy thereof; and a written Copy of any such Bill of Complaint, stamped as aforesaid, and with such Endorsement thereon as aforesaid, may be served on any Defendant thereto, and such Service shall have the same Effect as the Service of a printed Copy. 25

Plaintiff to
deliver
printed
Copies of
Bill at Rate
prescribed
by General
Order.
15 & 16 Vict.
c. 86. s. 7.

58. The Plaintiff in any Suit to be commenced by Bill in the said Court after the Time appointed for the Commencement of this Act shall be bound to deliver to the Defendant or his Solicitor, upon Application for the same, such a Number of printed Copies of his Bill of Complaint, upon being paid for the same at 30 such Rate as shall be prescribed by any General Order of the Court.

Provisions
as to filing,
&c. Prints of
original Bill
extended to
Amend-
ments.
In certain
Cases a
printed Bill
may be
wholly or

59. Upon the Amendment of any Bill of Complaint to be filed in the said Court after the Time appointed for the *Com- 35*
mencement of this Act, the Provisions herein-before contained with respect to filing and serving and delivering printed Copies thereof shall, so far as may be, extend and be applicable to the Bill as amended; provided that where, according to the present Practice of the said Court in relation to Suits commenced by Bill, an Amendment of a Bill may be made without a new Engrossment 40 thereof, or under such other Circumstances as shall be prescribed
by

by any General Order of the Court, a Bill may be wholly or partially amended by written Alterations in the printed Bill of Complaint so to be filed as aforesaid. partially amended.
15 & 16 Vict.
c. 86. s. 8.

60. Every Bill of Complaint to be filed in the said Court after the Time appointed for the Commencement of this Act shall contain, as concisely as may be, a Narrative of the material Facts, Matters, and Circumstances upon which the Plaintiff relies, such Narrative being divided into Paragraphs numbered consecutively, and each Paragraph containing, as nearly as may be, a separate and distinct Statement or Allegation, and shall pray specifically for the Relief which the Plaintiff may conceive himself entitled to, and also for general Relief; but such Bill of Complaint shall not contain any Interrogatories for the Examination of the Defendant. Bills of Complaint to contain concise Narratives of material Facts, &c. divided into numbered Paragraphs, but not to contain Interrogatories.
15 & 16 Vict.
c. 86. s. 10.

61. Before the Name of any Person shall be used in any Suit in the said Court commenced by Bill as next Friend of any Infant, married Woman, or other Party, or as Relator in any Information, such Person shall sign a written Authority to the Solicitor for that Purpose, and such Authority shall be filed with the Bill or Information. Next Friend of any Infant, &c. in any Suit, &c. to sign a written Authority.
15 & 16 Vict.
c. 86. s. 11.

62. No Demurrer to any Bill of Complaint shall be allowed, save only a Demurrer for Want of Equity or for Multifariousness. Demurrers abolished except for Want of Equity and Multifariousness.

63. No Plea to a Bill of Complaint shall be allowed, and all Defences to a Bill of Complaint which have heretofore been raised by Plea shall henceforth be raised by Answer to the Bill. Plea abolished.

64. Within a Time to be limited by a General Order of the Court in that Behalf, the Plaintiff in any Suit in the said Court commenced by Bill may, if he requires an Answer from any Defendant thereto, file in the Office of the Deputy Keeper of the Rolls in Ireland Interrogatories for the Examination of the Defendant or Defendants, or such of them from whom he shall require an Answer, and deliver to the Defendant or Defendants so required to answer, or to his or their Solicitor, a Copy of such Interrogatories, or of such of them as shall be applicable to the particular Defendant or Defendants; and no Defendant shall be called upon or required to put in any Answer to a Bill unless Interrogatories shall have been so filed, and a Copy thereof delivered to him or his Solicitor, within the Time so to be limited, or within such further Time as the Court shall think fit to direct. Interrogatories to be filed in the Office of the Deputy Keeper of the Rolls by the Plaintiff within Time prescribed.
15 & 16 Vict.
c. 86. s. 12.

Defendant may answer without Leave within Time fixed by a General Order, but after that Time must have Leave. 15 & 16 Vict. c. 86. s. 13.

65. Whether the Plaintiff in any Suit in the said Court commenced by Bill does or does not require any Answer from the Defendant or any One or more of the Defendants to the Bill, such Defendant or Defendants may, without any Leave of the Court, put in an Answer or Demurrer to the Plaintiff's Bill within such Time as shall be fixed by any General Order of the Court in that Behalf; but after that Time a Defendant or Defendants not required to answer the Plaintiff's Bill shall not be at liberty to put in an Answer or Demurrer to the Bill without Leave of the Court; provided that the Power of the Court to grant further Time for answering or demurring to any Bill, upon the Application of any Defendant or Defendants thereto, whether required to answer the Bill or not, shall remain in full Force, and shall not be in anywise prejudiced or affected; provided also, that if the Court shall grant any further Time to any Defendant for answering or demurring to the Bill, the Plaintiff's Right to move for a Decree under the Provisions herein-after contained shall in the meantime be suspended.

Defendant's Answer may contain not only Answer to Interrogatories, but Statements material to his Case. 15 & 16 Vict. c. 86. s. 14..

66. The Answer of the Defendant to any Bill of Complaint in the said Court may contain, not only the Answer of the Defendant to the Interrogatories so filed as aforesaid, but such Statements material to the Case as the Defendant may think it necessary or advisable to set forth therein, and such Answer shall also be divided into Paragraphs numbered consecutively, each Paragraph containing as nearly as may be a separate and distinct Statement or Allegation.

Defendant not to take Objection for Want of Parties in any Case to which Rules herein set forth shall extend. 15 & 16 Vict. c. 86. s. 42.

67. It shall not be competent to any Defendant in any Suit commenced by Bill in the said Court to take any Objection for Want of Parties to such Suit in any Case to which the Rules next herein-after set forth extend; and such Rules shall be deemed and taken as Part of the Law and Practice of the said Court, and any Law or Practice of the said Court inconsistent therewith shall be and is hereby abrogated and annulled.

Rule 1. Any Residuary Legatee or Next of Kin may, without serving the remaining Residuary Legatees or Next of Kin, have a Decree for the Administration of the Personal Estate of a deceased Person.

Rule 2. Any Legatee interested in a Legacy charged upon Real Estate, and any Person interested in the Proceeds of Real Estate directed to be sold, may, without serving any other Legatee or Person interested in the Proceeds of the Estate, have a Decree for the Administration of the Estate of a deceased Person.

Rule 3.

Rule 3. Any Residuary Devisee or Heir may, without serving any Co-residuary Devisee or Co-heir, have the like Decree.

5 Rule 4. Any One of several Cestuis que Trust under any Deed or Instrument may, without serving any other of such Cestuis que Trust, have a Decree for the Execution of the Trusts of the Deed or Instrument.

10 Rule 5. In all Cases of Suits for the Protection of Property pending Litigation, and in all Cases in the Nature of Waste, One Person may sue on behalf of himself and of all Persons having the same Interest.

Rule 6. Any Executor, Administrator, or Trustee may obtain a Decree against any One Legatee, Next of Kin, or Cestui que Trust for the Administration of the Estate, or the Execution of the Trusts.

15 Rule 7. Any Mortgagee or other Incumbrancer on Land may have a Decree for a Foreclosure and Sale, or a Sale of the mortgaged Lands, without serving any other Mortgagee or Incumbrancer, or a Trustee for such Mortgagee or Incumbrancer, unless such Mortgagee, Incumbrancer, or Trustee is
20 in the actual Possession or Receipt of the Rents and Profits of the mortgaged or incumbered Lands: Provided always, that a Person at whose Suit or for whose Benefit a Receiver or Sequestrator has been appointed or extended, or continues to receive the Rents and Profits of the Lands, shall not be deemed
25 to be in Receipt of such Rents and Profits within the Meaning of this Rule.

Rule 8. In all the above Cases the Court, if it shall think fit, may require any other Person or Persons to be made a Party or Parties to the Suit, and may, if it shall see fit, give the Conduct
30 of the Suit to such Person as it may deem proper, and may make such Order in any particular Case as it may deem just for placing the Defendant on the Record on the same Footing in regard to Costs as other Parties having a common Interest with him in the Matters in question.

35 Rule 9. In all the above Cases the Persons who, according to the Practice of the Court (previous to the passing of the Court of Chancery (Ireland) Regulation Act, 1850), would have been necessary Parties to the Suit, shall be served with Notice of the Decree, and after such Notice they shall, unless Cause be shown
40 to the contrary, within a Time to be limited by a General Order of the Court, be bound by the Proceedings in the same Manner as if they had been originally made Parties to the Suit, and they may by an Order of course have Liberty to attend the Proceedings under the Decree; and any Party so served may,
45 within such Time as shall in that Behalf be prescribed by

the General Order of the Court, apply to the Court to add to or vary the Decree.

Rule 10. In all Suits concerning Real or Personal Estate which is vested in Trustees under a Will, Settlement, or otherwise, such Trustees shall represent the Persons beneficially interested 5 under the Trust, in the same Manner and to the same Extent as the Executors or Administrators in Suits concerning Personal Estate represent the Persons beneficially interested in such Personal Estate; and in such Cases it shall not be necessary to make the Persons beneficially interested under the Trusts 10 Parties to the Suit; but the Court may, upon Consideration of the Matter, on the Hearing, if it shall so think fit, order such Persons or any of them to be made Parties.

Practice of setting down a Cause on Objection for Want of Parties abolished. 15 & 16 Vict. c. 86. s. 43. Plaintiff may, on Expiration of Time for answering, but before Replication, move for a Decree or Decretal Order. Affidavits may be filed. 15 & 16 Vict. c. 86. s. 15.

68. The Practice of the said Court of setting down a Cause merely on an Objection for Want of Parties to the Suit shall be 15 abolished.

69. The Plaintiff in any Suit commenced by Bill shall be at liberty, at any Time after the Time allowed to the Defendant for answering the same shall have expired (but before Replication), to move the Court, upon such Notice as shall in that Behalf be 20 prescribed by any General Order of the Court, for such Decree or Decretal Order as he may think himself entitled to; and the Plaintiff and Defendant respectively shall be at liberty to file Affidavits in support of and in opposition to the Motion so to be made, and to use the same on the Hearing of such Motion; and if 25 such Motion shall be made after an Answer filed in the Cause the Answer shall for the Purposes of the Motion be treated as an Affidavit.

Court may refuse such Motion, or make Order for further Prosecution, &c. 15 & 16 Vict. c. 86. s. 16.

70. Upon any such Motion for a Decree or Decretal Order it shall be discretionary with the Court to grant or refuse the Motion, 30 or to make an Order giving such Directions for or with respect to the further Prosecution of the Suit as the Circumstances of the Case may require, and to make such Order as to Costs as it may think right.

Practice of excepting to Bills, Answers, &c. for Impertinence abolished. Proviso as to Costs. 15 & 16 Vict. c. 86. s. 17.

71. All Exceptions for Insufficiency, and all Objections for Pro- 35 lixity or Scandal which according to the existing Practice of the Court in Suits commenced by Bill are determined by the Master of the Court shall be heard and determined by the Court itself, and the Practice of objecting to Bills, Answers, and other Proceedings in the said Court for Impertinence shall be and the same is hereby 40 abolished: Provided always, that it shall be lawful for the Court to direct

direct the Costs occasioned by any impertinent Matter introduced into any Proceeding in the said Court to be paid by the Party introducing the same, upon Application being made to the Court for that Purpose. 13 & 14 Vict. c. 35. s. 27.

5 72. It shall be lawful for the Court, upon the Application of the Plaintiff in any Suit commenced by Bill, whether the Defendant may or may not have been required to answer the Bill, or may or may not have been interrogated as to the Possession of Documents, to make an Order for the Production by any De- Court may order Defendant to produce Documents, &c. on Oath. 15 & 16 Vict. c. 86. s. 18.

10 fendant upon Oath of such of the Documents in his Possession or Power relating to Matters in question in the Suit as the Court shall think right; and the Court may deal with such Documents, when produced, in such Manner as shall appear just.

15 73. It shall be lawful for any Defendant in any Suit commenced by Bill (but as to Suits in which the Defendant is required to answer not until after the Defendant shall have put in a sufficient Answer to the Bill), and without filing any Cross Bill of Discovery, to file in the Office of the Deputy Keeper of the Rolls in Ireland Interrogatories for the Examination of the Plaintiff, to which shall In certain Cases Defendant, after Answer, may file Interrogatories for Examination of Plaintiff. 15 & 16 Vict. c. 86. s. 19.

20 be prefixed a concise Statement of the Subjects on which a Discovery is sought, and to deliver a Copy of such Interrogatories to the Plaintiff or his Solicitor; and such Plaintiff shall be bound to answer such Interrogatories, in like Manner as if the same had been contained in a Bill of Discovery filed by the Defendant against

25 him on the Day when such Interrogatories shall have been filed, and as if the Defendant to such Bill of Discovery had on the same Day duly appeared; and the Practice of the Court with reference to excepting to Answers for Insufficiency or Objections for Scandal shall extend and be applicable to Answers put in to such Interroga-

30 tories: Provided always, that in determining the Materiality or Relevancy of any such Answer, or of any Exception or Objection thereto, the Court is to have Regard to the Statements contained in the original Bill, and in the Answer which may have been put in thereto by the Defendant exhibiting such Interrogatories for the

35 Examination of the Plaintiff: Provided also, that a Defendant, if he shall think fit so to do, may exhibit a Cross Bill of Discovery against

the Plaintiff, instead of filing Interrogatories for his Examination. Defendant may exhibit a Cross Bill instead of filing Interrogatories.

74. It shall be lawful for the Court, upon the Application of any Defendant in any Suit commenced by Bill, but as to Suits in which the Defendant is required to answer the Plaintiff's Bill not until after he has put in a full and sufficient Answer to the Bill, unless the Court shall make any Order to the contrary; to make an Order

40 Upon Application of Defendant, after Answer, Plaintiff may be required to produce

Documents
on Oath.
15 & 16 Vict.
c. 86. s. 20.

for the Production by the Plaintiff in such Suit, on Oath, of such of the Documents in his Possession or Power relating to the Matters in question in the Suit as the Court shall think right; and the Court may deal with such Documents, when produced, in such Manner as shall appear just.

5

Practice of
issuing Com-
missions
to take
Answers,
&c. within
the Jurisdic-
tion of the
Court
abolished.
15 & 16 Vict.
c. 86. s. 21.

75. The Practice of the said Court, of issuing Commissions to take Answers, Disclaimers, and Examinations in Causes and Matters pending in the said Court, shall, with respect to Answers, Disclaimers, and Examinations taken within the Jurisdiction of the Court, be and the same is hereby abolished; and any such Answer, 10
Disclaimer, or Examination may be filed without any further or other Formality than is required in the swearing and filing of an Affidavit.

Masters Ex-
traordinary
to cease to
be so styled,
and to be
designated
Commission-
ers.
16 & 17 Vict.
c. 78. s. 1.

76. The Persons now styled Masters Extraordinary in Chancery shall cease to be so styled, and they, and all Persons hereafter 15
appointed by the Lord Chancellor to execute the like Duties in Ireland, shall be designated "Commissioners to administer Oaths in Chancery in Ireland," and shall possess and exercise all such Powers and discharge all such Duties as now appertain to the Office of Master Extraordinary in Chancery by virtue of any Statute or 20
Order of the Court of Chancery or of the Lord Chancellor, or Usage in that Behalf, or otherwise.

Power to
appoint So-
licitors resi-
ding within
Ten Miles of
Dublin as
Commission-
ers to take
Oaths.
16 & 17 Vict.
c. 78. s. 2.

77. It shall be lawful for the Lord Chancellor from Time to Time to appoint any Persons practising as Solicitors within *Ten Miles* from the Four Courts, Dublin, to administer Oaths and 25
take Affidavits in Chancery, and to possess all such other Powers and discharge all such other Duties as aforesaid; and such Persons shall be styled "Dublin Commissioners to administer Oaths in Chancery," and they shall be entitled to charge and take a Fee of *One Shilling and Sixpence* for every Oath administered and for 30
every Affidavit taken by them, subject to any General Order of the Court varying or annulling the same.

Clerk of
Affidavits
and Clerk of
Recognizances
may
administer
Oaths and
take Affir-
mations.

78. From and after the Time appointed for the Commencement of this Act it shall and may be lawful for the Clerk of Affidavits and Clerk of Recognizances in Chancery for the Time being, and they 35
are hereby authorized and required, to administer Oaths and take Affidavits in Chancery: Provided always, that such Clerks shall not be required, except under a special Order of the Court, to go out of their respective Offices to administer the said Oaths or take the said Affidavits, and that when any such Clerk shall be required 40
by any Order of the Court to attend out of his said Office for the

the Purposes aforesaid, the Charge for every such Attendance, together with the Rate of his Travelling Expenses, if any, shall be expressed in such Order of the Court; and that it shall and may be lawful for such Clerk to receive such Sum for his Attendance,
 5 and also such Rate of Travelling Expenses, as shall be expressed in such Order of the Court, and no other or greater Sum.

79. It shall be lawful for the Lord Chancellor from Time to Time to appoint any Persons practising as Solicitors in the Isle of Man and in the Channel Islands, or any of them, to administer
 10 Oaths and take Affidavits, and to possess all such other Powers and discharge all such other Duties as aforesaid; and such Persons shall be styled "Commissioners to administer Oaths in Chancery," with the Addition of the Words "for the Isle of Man," or "for the Channel Islands," as the Case may be; and they shall be entitled
 15 to charge and take the same Fees as the said Commissioners to administer Oaths in Chancery.

Commissioners may be appointed to administer Oaths for the Isle of Man and the Channel Islands.
 16 & 17 Vict. c. 78. s. 3.

80. *The Fiat or Document by which any such Commissioners as aforesaid shall be appointed shall bear a Chancery Fund Stamp of*
 20 *or be payable in respect of such Appointment, or of anything requisite to be done in order to perfect the same; and it shall not be necessary that any such Appointment should be published in the Dublin Gazette.*

Commissioners Appointment to bear a Chancery Stamp of in lieu of other Charges.
 16 & 17 Vict. c. 78. s. 4.

81. Nothing herein contained shall abridge or lessen the Power
 25 of the Lord Chancellor, as it now exists, to appoint fit Persons to administer Oaths, and take Affidavits in Chancery, or to regulate the Fees to be taken by them, and where any Act of Parliament refers to the Masters Extraordinary in Chancery, or to their Powers or Duties, the Reference shall be held to apply to and include the
 30 Commissioners herein-before mentioned, or to their Powers or Duties, as the Case may be: Provided that Solicitors and Attornies of not less than Five Years Standing shall be preferred for such Appointments if otherwise suited thereto.

Nothing to lessen the Power of the Lord Chancellor. References to Masters Extraordinary in Acts to apply to Commissioners.
 16 & 17 Vict. c. 78. s. 5.

82. All Answers, Disclaimers, Examinations, and Affidavits, in
 35 Causes or Matters depending in the High Court of Chancery in Ireland, and also Acknowledgments required for the Purpose of enrolling any Deed in the said Court, shall and may be sworn and taken in England or Scotland, or the Isle of Man, or the Channel Islands, or in any Colony, Island, Plantation, or Place under the Dominion
 40 of Her Majesty in Foreign Parts, before any Judge, Court, Notary Public, or Person lawfully authorized to administer Oaths in such Country, Colony, Island, Plantation, or Place respectively, or before

Answers, Affidavits, &c. in Chancery, how to be sworn and taken in England, Scotland, the Channel Islands, &c.
 15 & 16 Vict. c. 86. s. 22.

any of Her Majesty's Consuls or Vice-Consuls in any Foreign Part out of Her Majesty's Dominions; and the Judges and other Officers of the said Court of Chancery shall take Judicial Notice of the Seal or Signature, as the Case may be, of any such Court, Judge, Notary Public, Person, Consul, or Vice-Consul, attached, appended, or subscribed to any such Answers, Disclaimers, Examinations, and Affidavits, Acknowledgments, or other Documents to be used in the said Court.

Penalty for
falsely
swearing,
&c.
15 & 16 Vict.
c. 86. s. 23.

83. All Persons swearing before any Person authorized by this Act to administer Oaths and take Affidavits shall be liable to all such Penalties, Punishments, and Consequences for any wilful and corrupt false swearing contained therein as if the Matter sworn had been sworn before any Court or Person now by Law authorized to administer Oaths and take Declarations, Affirmations, or Attestations upon Honour. 15

Penalty for
forging
Signature
or Seal of
Judge, &c.
empowered
to administer
Oaths under
this Act.
15 & 16 Vict.
c. 86. s. 24.

84. If any Person shall forge the Signature or the Official Seal of any such Judge, Court, Notary Public, Consul or Vice-Consul, or other Person lawfully authorized to administer Oaths under this Act, or shall tender in Evidence any Answer, Disclaimer, Examination, Affidavit, or other Judicial or Official Document with a false or counterfeit Signature or Seal of any such Judge, Court, Notary Public, Consul or Vice-Consul, or other Person authorized as aforesaid, attached or appended thereto, knowing the same Signature or Seal to be false or counterfeit, every such Person shall be guilty of Felony, and shall be liable to the same Punishment as any Offender under an Act passed in the Eighth and Ninth Years of the Reign of Her present Majesty, intituled "An Act to facilitate the Admission in Evidence of certain Official and other Documents."

Answers to
be filed
without
Oath of
Messenger.

85. Answers, Disclaimers, Examinations, and Affidavits, whether taken by Commission out of the Jurisdiction of the said Court or otherwise, may be filed without the Oath of a Messenger, and any Alterations made thereon previously to the taking thereof shall be authenticated according to the Practice now in use with respect to Affidavits.

Issue may be
joined by
filing Replication.
15 & 16 Vict.
c. 86. s. 26.

86. In Suits in the said Court commenced by Bill, where Notice of Motion for a Decree or Decretal Order shall not have been given, or, having been given, where a Decree or Decretal Order shall not have been made thereon, Issue shall be joined by filing a Replication in the Form given in Schedule (B.) to this Act, or in such other Form as shall be prescribed by a General Order of the Court; and where a Defendant shall not have been required to answer and shall not have answered the Plaintiff's Bill he shall be considered to have traversed the Case made by the Bill. 35 40

87. Where

27 Defendant not having been required to answer and not answering may move for Dismissal of Bill for Want of Prosecution. 15 & 16 Vict. c. 86. s. 27.

87. Where a Defendant to a Suit in the said Court commenced by Bill shall not have been required to answer the Bill, and shall not have answered the same, such Defendant shall be at liberty to move to dismiss the Bill for Want of Prosecution, at such Times, and under such Circumstances, and subject to such Restrictions as shall be in that Behalf prescribed by any General Order of the Court.

88. The Mode of examining Witnesses in Suits in the said Court commenced by Bill, and all the Practice of the said Court in relation thereto, so far as such Practice shall be inconsistent with the Mode herein-after prescribed of examining such Witnesses, and the Practice in relation thereto, shall, from and after the Time appointed for the Commencement of this Act, be abolished: Provided always, that the Court may, in any Suit commenced by Bill, if it shall think fit, order any particular Witness or Witnesses within the Jurisdiction of the said Court, or any Witness or Witnesses out of the Jurisdiction of the said Court, to be examined upon Interrogatories in the Mode now practised in the said Court in such Suits; and that with respect to such Witness or Witnesses the Practice of the said Court in such Suits in relation to the Examination of Witnesses shall continue in full Force, save only as far as the same may be varied by any General Order of the Court in that Behalf, or by any Order of the Court with reference to any particular Case.

Practice of Court as to and Mode of examining Witnesses abolished. Court may order particular Witnesses to be examined upon Interrogatories. 15 & 16 Vict. c. 86. s. 28.

89. When any Cause commenced by Bill shall be at issue, the Plaintiff or any Defendant may, within such Time as shall be fixed by a General Order of the Court, apply by Summons, to be served upon the opposite Party, for an Order that the Evidence in Chief as to any Facts or Issues, such Facts or Issues to be distinctly and concisely stated in the Summons, may be taken vivâ voce at the Hearing of the Cause; and that the Judge may make an Order that the Evidence in Chief as to such Facts and Issues, or any of them, shall be taken vivâ voce at the Hearing accordingly; and the Facts and Issues as to which any such Order shall direct that the Evidence in Chief shall be taken vivâ voce at the Hearing shall be distinctly specified in such Order; but in case the Judge shall be satisfied that such Application is unreasonable, or made for the Purpose of Delay, Oppression, or Vexation, he may refuse to make any such Order; and where any such Order shall have been made the Examination in Chief as well as the Cross-examination and Re-examination shall be taken before the Court at the Hearing as to the Facts and Issues specified in such Order.

Judge may, upon Application, order that the Evidence as to certain Facts or Issues shall be taken vivâ voce at the Hearing.

Evidence as to Facts not included in such Order as in last Section to be taken by Affidavit or Examination before the Examiner.

90. No Affidavit nor any Evidence taken before an Examiner shall be admissible at the Hearing of any such Cause as mentioned in the last preceding Section in respect of any Fact or Issue which shall be included in any Order directing Evidence in Chief to be taken *vivâ voce* at the Hearing, but, except as to the Facts or 5 Issues included in such Order, each Party in a Cause in which Issue is joined shall be at liberty to verify his Case, either wholly or partially by Affidavit, or wholly or partially by the oral Examination of Witnesses *ex parte* before the Examiner of the Court, or an Examiner to be specially appointed by the Court or Judge. 10

Any Party in a Cause may by Subpœna require Attendance of any Witness at the Hearing.

91. Each Party shall be at liberty to sue out of the Office of the Clerk of Appearances and Writs Writs of Subpœna *ad testificandum* and *Duces tecum* to compel the Attendance at the Hearing of Witnesses whom he may desire to produce on any Issue or Matter of Fact included in such Order as is mentioned in the Eighty-ninth 15 Section of this Act.

Any Party in a Suit may by Subpœna require Attendance of any Witness before an Examiner. 15 & 16 Vict. c. 86. s. 40.

92. Any Party in any Suit depending in the Court shall be at liberty to sue out a Writ of Subpœna *ad testificandum* or *Duces tecum* to compel the Attendance of any Witness before an Examiner of the said Court, or before an Examiner specially appointed 20 as aforesaid, and examine such Witness orally, for the Purpose of using his Evidence upon any Motion, Petition, or other Proceeding before the Court; and every such Witness shall be bound to attend for Examination and shall be examined in like Manner as he would be bound to attend and be examined with a view to the Hearing of a 25 Cause in which Issue is joined.

Examination before the Examiner to be *ex parte*.

93. Except as herein-after provided, all Examinations taken by the Examiners of the Court, or by any special Examiner, for the Purpose of being used at the Hearing of a Cause in which Issue is joined, shall be taken *ex parte*, the Examiner being furnished by 30 the Plaintiff with a Copy of the Bill and Answer, if any, in the Cause; and no Person shall have a Right to be present at the taking of such Examination except the Party producing the Witness, his Counsel, Solicitor, and Agents; and every Deposition taken upon such Examination shall be deemed to be an Affidavit; and the Exa- 35 miner, before transmitting the same to the Office of the Clerk of Affidavits, to be filed as herein-after provided, shall mark the same as taken *ex parte*.

Witnesses by Affidavits or who have been examined *ex*

94. Every Witness, whether a Party or not, who has made an Affidavit to be used at the Hearing of a Cause in which Issue is 40 joined, or who has been examined *ex parte* before an Examiner with a view to such Hearing, and also every Person, whether a Party or not,

not, who has made an Affidavit to be used upon any Motion, Petition, or other Proceeding before the said Court, shall be subject to oral Cross-examination by any opposite Party, either before the Court, or, in the Cases herein-after provided, before an Examiner, and after
5 such Cross-examination may be re-examined orally by or on behalf of the Party by whom such Affidavit has been filed or Witness examined; and such Witness shall be bound to attend before the Court or such Examiner, to be so cross-examined and re-examined, upon being served with a Writ of Subpœna ad testificandum or
10 Duces tecum; and the Party by whom or on whose Behalf such Affidavit shall have been filed or Witness examined shall be bound to produce such Deponent or Witness before the Court or Examiner, as the Case may be, to be so cross-examined and re-examined, upon due and proper Notice for that Purpose being served upon such
15 Party or his Solicitor; and unless such Deponent or Witness be produced accordingly such Affidavit or Examination shall not be used as Evidence, unless by special Leave of the Court: Provided always, that the Party required to produce such Deponent or Witness shall be entitled to demand the reasonable Expenses of the
20 said Deponent or Witness, in the first instance, if not already paid to such Deponent or Witness, from the Party requiring such Production, but such Expenses shall ultimately be borne as the Court shall direct: Provided also, that upon the Hearing of any Motion, Petition, or other Proceeding the Court shall always have a discre-
25 tionary Power of acting upon such Evidence as may be before it, and of making such Interim Orders, or otherwise, as may appear necessary to meet the Justice of the Case.

parte before the Examiner may be cross-examined and re-examined.

And the Party filing their Affidavits or producing them bound to produce them for this Purpose.

95. Except as herein-after provided, no Cross-examination of any Deponent or Witness, or of any Party, to be used at the Hearing of
30 a Cause in which Issue is joined, shall be taken otherwise than before the Court at the Hearing.

In Causes in which Issue is joined Cross-examination to be before the Court at the Hearing.

96. If at any Time after Issue joined the Parties shall, by Writing signed by them or their respective Solicitors, and filed at the Office of the Deputy Keeper of the Rolls, agree that the oral
35 Examination in Chief, Cross-examination, and Re-examination of any Witness or Witnesses (whether a Party or Parties or not), or the Cross-examination and Re-examination of any Person or Persons who shall have made an Affidavit or Affidavits, or who shall have been examined ex parte before an Examiner, shall be taken before
40 the Examiner of the Court or a special Examiner, such Examination, Cross-examination, and Re-examination, or Cross-examination and Re-examination, may be taken accordingly, and shall be conducted in the Manner herein-after provided.

Parties may, by written Consent, agree that Examination, Cross-examination, and Re-examination of Witnesses shall take place before the Examiner.

Power to the Court or Judge in certain Cases to direct Examination and Cross-examination to take place before the Examiner.

97. The Court or the Judge may direct that the oral Examination, Cross-examination, and Re-examination of any Witness (whether a Party or not), or the Cross-examination and Re-examination of any Person who has been examined *ex parte* before an Examiner or made an Affidavit, shall be taken before an Examiner of the Court 5 or a special Examiner, in case it shall appear to the Court or Judge that, owing to the Age, Infirmary, or Absence out of the Jurisdiction of such Witness or Person, or for any other Cause which to the Judge shall appear sufficient, it is expedient that such Direction should be given. 10

In Cases provided for by the last Two Sections the Examination in Chief, Cross-examination, and Re-examination to take place before the same Examiner.

98. In all such Cases as are provided for in the last Two preceding Sections the Examination in Chief, Cross-examination, and Re-examination, or the Cross-examination and Re-examination, of any such Witness or Person as therein respectively mentioned, shall be taken before the same Examiner or special Examiner, or his 15 Successor in Office; and the Cross-examination of every Witness or Person examined in chief shall immediately follow his Examination in Chief; and such Examination, Cross-examination, and Re-examination, or Cross-examination and Re-examination, as the Case may be, shall take place in the Presence of the Parties, 20 their Counsel, Solicitors, or Agents, and shall be conducted as nearly as may be in the Mode now in use in Courts of Common Law with respect to a Witness about to go abroad, and not expected to be present at the Trial of a Cause.

In Suits to perpetuate Testimony Evidence to be taken according to present Practice.

99. In Suits to perpetuate Testimony Evidence shall continue to 25 be taken according to the now existing Practice in Cases of Bills filed to perpetuate Testimony.

Depositions to be taken down in Writing, and read over to the Witness, who shall sign the same. but if he refuse to sign Examiner may, and state any special Matter he may think fit. 15 & 16 Vict. c. 86. s. 32.

100. The Depositions taken upon any such oral Examination, Cross-examination, and Re-examination as aforesaid before an Examiner shall be taken down in Writing by the Examiner, not ordina- 30 rily by Question and Answer, but in the Form of a Narrative, and in the First Person and when completed shall be read over to the Witness, and signed by him: Provided always, that in case the Witness shall refuse to sign the said Depositions, then the Examiner shall sign the same, and such Examiner may, upon all Examinations, state any 35 special Matter to the Court as he shall think fit; provided also, that it shall be in the Discretion of the Examiner to put down any particular Question or Answer, if there should appear any special Reason for doing so; and any Question or Questions which may be objected to shall be noticed or referred to by the Examiner in or upon the 40 Depositions, and he shall state his Opinion thereon to the Counsel, Solicitors, or Parties, and shall refer to such Statement on the Face of

of the Depositions, but he shall not have Power to decide upon the Materiality or Relevancy of any Question or Questions; and the Court shall have Power to deal with the Costs of immaterial or irrelevant Depositions as may be just.

5 101. If any Person produced as a Witness before any such Examiner shall refuse to be sworn or to answer any lawful Question put to him by the Examiner or by either of the Parties, or by his or their Counsel, Solicitor, or Agent, the same Course shall be adopted with respect to such Witness as is now pursued in the Case of a
10 Witness produced for Examination before an Examiner of the Court upon written Interrogatories, and refusing to be sworn or to answer some lawful Question: Provided always, that if any Witness shall demur or object to any Question or Questions which may be put to him, the Question or Questions so put, and the Demurrer
15 or Objection of the Witness thereto, shall be taken down by the Examiner, and transmitted by him to the Office of the Clerk of Affidavits of the Court, to be there filed, and the Validity of such Demurrer or Objection shall be decided by the Court; and the Costs of and occasioned by such Demurrer or Objection shall be in
20 the Discretion of the Court.

If Parties refuse to be sworn or to answer any lawful Questions, the same Course to be pursued as is now adopted. Proviso as to Witness demurring to Questions. 15 & 16 Vict. c. 86. s. 33.

102. The Re-examination of a Witness shall in all Cases follow his Cross-examination, and shall not, except by Consent or special Order of the Court, be delayed to a future Time.

Re-examination of Witness to follow Cross-examination.

103. When the Examination or Cross-examination and Re-
25 examination of Witnesses before any Examiner shall have been concluded, the original Depositions, authenticated by the Signature of such Examiner, shall be transmitted by him to the Office of the Clerk of Affidavits, to be there filed; and any Person may have a Copy thereof, or of any Part or Portion thereof, upon Pay-
30 ment for the same, at such Time and in such Manner as shall be provided by any General Order of the Court in that Behalf.

Original Depositions to be transmitted to the Office of the Clerk of Affidavits. 15 & 16 Vict. c. 86. s. 34.

104. It shall not be necessary to sue out any Commission for the Examination of any Witnesses within the Jurisdiction of the Court; and any Examiner appointed by any Order of the Court
35 shall have the like Power of administering Oaths as Commissioners now have under Commissions issued by the Court for the Examination of Witnesses.

Commission for Examination of Witnesses dispensed with, and Examiner empowered to administer Oaths. 15 & 16 Vict. c. 86. s. 35.

105. Every Affidavit to be used in the Court shall be taken in the First Person and be divided into Paragraphs, and every Para-
40 graph shall be numbered consecutively, and as nearly as may be shall be confined to a distinct Portion of the Subject; and every

Affidavits to be divided into Paragraphs numbered. 15 & 16 Vict. c. 86. s. 37.

Affidavit to be used at the Hearing of a Cause in which Issue is joined shall, unless the Court or Judge shall otherwise permit or direct, be prepared in the Form of Answers to Interrogatories directed to the Facts or Issues to be proved, and consecutively numbered and set out at the Head of such Affidavit, and the 5 Answers thereto shall be in distinct Paragraphs numbered in corresponding Numbers; but all such Affidavits shall be prepared and sworn in all other respects as other Affidavits used in the Court.

Closing Evidence, Cross-examination, and Re-examination.

106. Except as to Facts or Issues included in any such Order as mentioned in the Eighty-ninth Section of this Act, and except as 10 to the Cross-examination and Re-examination of Witnesses at the Hearing, the Evidence at both Sides to be used at the Hearing of a Cause in which Issue is joined shall be closed within such Time as shall in that Behalf be prescribed by any General Order of the Court, but with Power to the Court to enlarge such Period as it may think 15 fit; and after the Time fixed for closing the Evidence, no further Evidence, whether oral or by Affidavit, shall be receivable without special Leave of the Court previously obtained for that Purpose.

Court may require the Production and oral Examination before itself of any Witness, &c., and determine Payment of the Costs.
15 & 16 Vict. c. 86. s. 39.

107. Upon the Hearing of any Cause commenced by Bill and depending in the Court, the Court, if it shall see fit so to do, 20 may require the Production and oral Examination before itself of any Witness or Party in the Cause, and may direct the Costs of and attending the Production and Examination of such Witness or Party to be paid by such of the Parties to the Suit or in such Manner as it may think fit. 25

Evidence subsequent to Hearing to be taken as the Court shall prescribe by General Orders.

108. In Cases where it shall be necessary for any Party to any Cause depending in the Court to go into Evidence subsequently to the Hearing of such Cause, such Evidence shall be taken in such Manner as shall be prescribed in a General Order of the Court.

Power for Court, notwithstanding any Rule, &c. to the contrary, to receive Proof by Affidavit.
13 & 14 Vict. c. 35. s. 28.

109. Notwithstanding any Rule or Practice to the contrary, 30 it shall be lawful for the Court, at the Hearing of any Cause or at a Hearing for any further Directions therein, to receive Proof by Affidavit of all proper Parties being before the Court, and of all such Matters as are necessary to be proved for enabling the Court to order Payment of any Monies belonging to any married Woman, 35 and of all such other Matters not directly in issue in the Cause as in the Opinion of the Court may safely and properly be so proved.

Deeds and Documents referred to in Pleadings

110. Where any Deed or Document, or any Record, or any Portion thereof respectively, shall be relied on in any Pleading, the said Deed or Document, or the Copy of such Record, shall be pro- 40 duced

duced upon every Hearing, or Motion, or other Proceeding in the said Suit, unless its Non-production can be satisfactorily excused; and in default thereof it shall be lawful for the Court or Judge before whom such Hearing, Motion, or other Proceeding shall take
5 place to exclude the Party so in default from all Benefit or Advantage of the said Deed, Document, or Record, and to make such Order for the Postponement of such Hearing, Motion, or other Proceeding, and the Payment of the Costs occasioned by such Postponement, as shall seem to be just; and in the event of such
10 Deed or Document, or the Copy of such Record, being produced, it shall be lawful for the Court or Judge to direct the same to be entered upon the Decree or Order of the Court to be made upon such Hearing, Motion, or other Proceeding, and to make such consequential Order in relation to Costs as to them or him shall
15 seem fit.

to be produced on Hearings, Motions, and other Proceedings.

111. If in any Suit before the Court it shall appear to the Court that any deceased Person who was interested in the Matters in question has no legal Representative, it shall be lawful for the Court either to proceed in the Absence of any Person representing
20 the Estate of such deceased Person, or to appoint some Person to represent such Estate for all the Purposes of the Suit or other Proceeding, on such Notice to such Person or Persons, if any, as the Court shall think fit, either specially, or generally by public Advertisements; and the Order so made by the Court, and any
25 Orders consequent thereon, shall bind the Estate of such deceased Person in the same Manner in every respect as if there had been a duly constituted legal personal Representative of such deceased Person, and such legal personal Representative had been a Party to the Suit or Proceeding, and had duly appeared and submitted
30 his Rights and Interests to the Protection of the Court.

Court may proceed in any Suit, &c. without Representative of deceased Person, or may appoint one. 15 & 16 Vict. c. 86. s. 44.

112. It shall be lawful for Persons interested or claiming to be interested in any Question cognizable in the Court as to the Construction of any Act of Parliament, Will, Deed, or other Instrument in Writing, or any Article, Clause, Matter, or Thing therein
35 contained, or as to the Title or Evidence of Title to any Real or Personal Estate contracted to be sold or otherwise dealt with, or as to the Parties to or the Form of any Deed or Instrument for carrying any such Contract into effect, or as to any other Matter falling within the original Jurisdiction of the Court as a Court of
40 Equity, or made subject to the Jurisdiction or Authority of the Court by any Statute, not being One of the Statutes relating to Bankrupts, and including among such Persons all Lunatics, married Women, and Infants, in the Manner and under the Restrictions

Power to Persons interested in Questions cognizable in Court of Chancery to state Special Cases for the Opinion of the Court. 13 & 14 Vict. c. 35. s. 1.

herein-after contained, to concur in stating such Question in the Form of a Special Case for the Opinion of the said Court, and it shall also be lawful for all Executors, Administrators, and Trustees to concur in such Case.

How Lunatic
may concur.
13 & 14 Vict.
c. 35. s. 2.

113. The Committee of the Estate of any Lunatic interested or 5
claiming to be interested in any such Question as aforesaid may,
after having been authorized in that Behalf by the Lord Chancellor,
concur in such Case in his own Name and in the Name and on the
Behalf of the Lunatic.

How married
Women
may concur.
13 & 14 Vict.
c. 35. s. 3.

114. A Husband interested or claiming to be interested in right 10
of his Wife in any such Question as aforesaid may concur in such
Case in his own Name and in the Name of his Wife where the Wife
has no Claim to any Interest distinct from her Husband, and a
married Woman having or claiming any Interest in any such
Question as aforesaid distinct from her Husband may in her own 15
Right concur in such Case, provided that her Husband also concurs
therein.

How Infant
may concur.
13 & 14 Vict.
c. 35. s. 4.

115. The Guardian of any Infant interested or claiming to be
interested in any such Question as aforesaid may concur in such
Case in the Name and on the Behalf of the Infant, unless such 20
Guardian has an Interest in such Question adverse to the Interest
of the Infant therein.

How Special
Guardian to
be appointed
for a Lunatic
not found
such by
Commission
and for In-
fant may
concur.
13 & 14 Vict.
c. 35. s. 5.

116. It shall be lawful for the Court, by Order to be made
in the Matter of any Lunatic not found such by Inquisition,
or in the Matter of any Infant, upon the Application of any 25
Person on the Behalf of such Lunatic, or upon the Application of
such Infant, by Motion or Petition, to appoint any Person shown
by Affidavit to be a fit Person, and to have no Interest adverse to
the Interest of the Lunatic or Infant, to be the Special Guardian of
such Lunatic or Infant for the Purpose of concurring in such Case, 30
in the Name and on behalf of the Lunatic or Infant, and any such
Person so appointed may lawfully so concur: Provided always, that
it shall be lawful for the Court to require Notice of such Applica-
tion to be given to such Person, if any, as the Court shall think fit.

Order to
appoint Spe-
cial Guar-
dian of an
Infant may
be dis-
charged by
Court, if

117. In any Case in which any such Order as aforesaid shall 35
have been made by the Court in the Matter of any Infant without
Notice to the Guardian of the Infant, it shall be lawful for the
said Court, if it shall think fit so to do, to discharge such Order,
upon the Application of such Guardian, by Motion or Petition; and
the Court, if it shall think fit, may thereupon appoint some other 40
fit

fit Person to be the Special Guardian of such Infant for the Purpose of such Special Case, and may also give such Directions as may be necessary for substituting in such Special Case either the Name of the Guardian so applying, or of the Special Guardian so appointed, in lieu of the Name of the Special Guardian so displaced : Provided always, that the Discharge of any Order appointing a Special Guardian shall not invalidate anything which shall in the meantime have been done by such Special Guardian; unless the Court shall, upon Notice to all Parties, specially so direct.

10 **118.** Every such Special Case shall be intituled as a Cause between some or One of the Parties interested or claiming to be interested as Plaintiffs or Plaintiff, and the others or other of them as Defendants or Defendant; and in the Title to such Cases Lunatics and Infants shall be described as such, and their Committees, Guardians, or Special Guardians named; and where in any such Case a married Woman is named as a Plaintiff and her Husband as a Defendant thereto, a next Friend of such married Woman shall be named in the Title to such Case.

made without Notice.
13 & 14 Vict.
c. 35. s. 6.

How such Special Cases to be intituled.
13 & 14 Vict.
c. 35. s. 7.

20 **119.** Every such Special Case shall concisely state such Facts and Documents as may be necessary to enable the Court to decide the Question raised thereby, and upon the Hearing of such Case the Court and the Parties shall be at liberty to refer to the whole Contents of such Documents, and the Court shall be at liberty to draw from the Facts and Documents stated in any such Special Case any Inference which the Court might have drawn therefrom if proved in a Cause.

Form of Special Case.
13 & 14 Vict.
c. 35. s. 8.

30 **120.** Every such Special Case to which an Infant or a Lunatic is a Party by his Guardian or Special Guardian shall also state how such Guardian or Special Guardian was constituted; and where any married Woman having or claiming any Interest distinct from her Husband is a Party to such Case, it shall be stated therein that she concurs in such Case in her own Right.

Special Case to state how Guardian constituted, and the Concurrence of married Woman.
13 & 14 Vict.
c. 35. s. 9.

35 **121.** Every such Special Case shall be signed by Counsel for all Parties, and shall be filed in the same Manner as Bills are filed, and the Defendants may appear thereto in the same Manner as Defendants appear to Bills; and no Defendant shall be required to take an attested Copy of a Special Case, but an attested Copy thereof shall be taken by the Plaintiff.

Special Cases to be signed by Counsel and filed, and Appearances to be entered.
13 & 14 Vict.
c. 35. s. 10.

40 **122.** After a Special Case shall have been filed, and the Defendants shall have appeared thereto, all the Parties to such Special Case

After a Special Case filed, Parties

to be bound
by State-
ments after
Defendants
have ap-
peared, ex-
cept married
Women,
Infants, and
Lunatics,
who are not
to be bound
till Leave
given by
Court to set
it down.
13 & 14 Vict.
c. 35. s. 11.

Case shall be subject to the Jurisdiction of the Court, in the same Manner as if the Plaintiff in the Special Case had filed a Bill against the Parties named as Defendants thereto, and such Defendants had appeared to such Bill; and upon the Special Case being filed, and Appearances entered thereto as aforesaid, all Parties to such Special Case, other than married Women, Infants, and Lunatics, shall for the Purposes of such Special Case be bound by the State-ments therein; and all married Women, Infants, and Lunatics made Parties to a Special Case shall for the Purposes of such Special Case be bound by the Statements therein, when and not before 10 Leave shall have been given by the Court to set down such Special Case in manner herein-after provided.

How Case to
be set down
for Hearing.
13 & 14 Vict.
c. 35. s. 12.

123. So soon as all the Defendants shall have appeared to the Special Case the same may, subject to the Provisions herein-after contained, be set down for Hearing, and Subpœnas to hear 15 Judgment issued and served according to the Practice of the said Court.

When a
married Wo-
man, Infant,
or Lunatic
is a Party,
Application
to be made
to the Court
for Leave to
set the Case
down.
13 & 14 Vict.
c. 35. s. 13.

124. When any married Woman, Infant, or Lunatic is Party to a Special Case, Application may be made to the Court for Leave to set down the same, of which Application Notice shall be given to 20 every Party to such Case in whom, as Executor, Administrator, or Trustee, any Property in question therein is or is alleged to be vested in trust for or for the Benefit of such married Woman, Infant, or Lunatic, and also, if such Application be not made by or on behalf of such married Woman, Infant, or Lunatic, to such 25 married Woman and her Husband, or to such Infant, or to such Lunatic and his Committee, if any, as the Case may be; and upon the Hearing of such Application the Court may give Leave to set down such Case, if it shall be of opinion that it is proper that the Question raised therein shall be determined thereon, and shall 30 be satisfied by Affidavit or other sufficient Evidence that the State-ments contained therein, so far as the same affect the Interest of such married Woman, Infant, or Lunatic, are true, but otherwise may refuse such Application: Provided always, that in case the Court, upon the Hearing of such Application, shall be of opinion 35 that it is proper that the Question raised in such Case shall be determined thereon, but shall not be satisfied that the Statements contained therein, so far as they affect the Interest of such married Woman, Infant, or Lunatic, are true, it shall be lawful for the Court to direct such Inquiries as to the Court shall seem proper, 40 and upon further Application being made to give or refuse Leave to set down such Case, as to the Court shall seem fit.

125. It shall be lawful for the Court, upon the Hearing of any such Special Case as aforesaid, to determine the Questions raised therein or any of them, and by Decree to declare its Opinion thereon, and, so far as the Case shall admit of the same, upon the
 5 Right involved therein, without proceeding to administer any Relief consequent upon such Declaration; and every such Declaration of the Court contained in any such Decree shall have the same Force and Effect as such Declaration would have had, and shall be binding to the same Extent as such Declaration would have been,
 10 if contained in a Decree made in a Suit between the same Parties instituted by Bill: Provided always, that if upon the Hearing of such Special Case as aforesaid the Court shall be of opinion that the Questions raised thereby or any of them cannot properly be decided upon such Case, the Court may refuse to decide the
 15 same.

Upon Hearing, Court to determine Question and make Declaration.

13 & 14 Vict. c. 35. s. 14.

Proviso that Court may refuse to decide.

13 & 14 Vict. c. 35. s. 14.

126. Every Executor, Administrator, Trustee, or other Person making any Payment or doing any Act in conformity with the Declaration contained in any Decree made upon a Special Case, shall in all respects be as fully and effectually protected and indemnified
 20 by such Declaration as if such Payment had been made or Act done under or in pursuance of the express Order of the said Court made in a Suit between the same Parties instituted by Bill, save only as to any Rights or Claims of any Person in respect of Matters not determined by such Declaration.

Protection to be afforded to Trustees by Declaration.

13 & 14 Vict. c. 35. s. 15.

127. Where any Person shall be desirous to appeal from the Decision on such Special Case, it shall be lawful for the Court, upon Application for that Purpose, either at the Time of the Decree upon such Special Case being made or at any Time afterwards, and upon such Conditions, if any, as the Court shall think fit, to order
 25 that the Declaration contained in such Decree shall not be acted upon for such Time as the Court shall think just.

The Court may suspend the acting upon Declaration.

13 & 14 Vict. c. 35. s. 16.

128. The filing of a Special Case, and the entering of Appearances thereto by the Persons named as Defendants therein, shall be taken to be a *Lis pendens*, and may be registered under the
 35 Provisions of an Act made and passed in the Session of Parliament held in the Seventh and Eighth Years of the Reign of Her present Majesty, intituled “An Act for the Protection of Purchasers
 “against Judgments, Crown Debts, *Lis pendens*, Commission of
 “Bankruptcy, and for providing One Office for registering all
 40 “Judgments in Ireland, and for amending the Laws in Ireland
 “respecting Bankrupts and Limitations of Actions,” in like
 [47.]

Special Case to be a *Lis pendens*, and may be registered.

13 & 14 Vict. c. 35. s. 17.

Manner as any other *Lis pendens* in a Court of Equity may now be so registered, and, unless and until so registered, shall not bind a Purchaser or Mortgagee without express Notice thereof.

Mode of
identifying
Documents,
and Court
may Order
Production.
13 & 14 Vict.
c. 35. s. 18.

129. Any Documents referred to in a Special Case, and any Copies thereof or Extracts therefrom, identified by the Signature 5 of the Solicitors for all Parties, or of the Town Agents of such Solicitors, may be produced and read at the Hearing of such Case, without further Proof; and it shall be lawful for the said Court at any Time after the filing of the Special Case, and the entering of Appearances thereto by the Persons named as Defendants therein, 10 to order any Document which may be admitted thereby to be in the Possession of any Party to such Case to be deposited and produced in such Manner and for such Purposes as the Court shall think fit.

Power to
Master of
the Rolls
and Vice-
Chancellors
to sit at
Chambers
for the De-
spatch of
Business, &c.
15 & 16 Vict.
c. 80. s. 11.

130. From and after the *First Day of* *One thousand eight hundred and* , it shall be lawful for the Master of 15 the Rolls and the Vice-Chancellor for the Time being and they are hereby required to sit at Chambers for the Despatch of such Part of the Business of the Court as can, without Detriment to the public Advantage arising from the Discussion of Questions in open Court, be heard in Chambers, according to the Directions herein- 20 after in that Behalf specified or referred to; and the Times at and during which they respectively shall so sit shall be from Time to Time fixed by them respectively.

Power to
Lord Chan-
cellor to pro-
vide Cham-
bers for
Master of the
Rolls and
Vice-Chan-
cellor.
15 & 16 Vict.
c. 80. s. 12.

131. The Chamber Business of the Master of the Rolls and of the Vice-Chancellor respectively shall be carried on in conjunction 25 with his Court Business; and it shall be lawful for the Lord Chancellor to cause Chambers to be provided for each of them for that Purpose, until Courts, with proper Rooms attached, can be provided for them.

Judges to
have same
Power and
Jurisdiction
as in open
Court.
15 & 16 Vict.
c. 80. s. 13.

132. The Master of the Rolls and the Vice-Chancellor respec- 30 tively, when sitting in Chambers, shall have the same Power and Jurisdiction in respect of the Business to be brought before them as if they were respectively sitting in open Court.

Orders made
at Chambers
to be drawn
up by Judges
Clerks.
15 & 16 Vict.
c. 80. s. 14.

133. Orders made by the Master of the Rolls and the Vice-Chancellor respectively, when sitting in Chambers, shall ordinarily 35 be drawn up and signed by their respective Chief Clerks.

Orders made at
Chambers to
have same
Force as Or-

134. All Orders of the Master of the Rolls or of the Vice-Chancellor, made at Chambers, shall have the Force and Effect of

of Orders of the Court of Chancery, and such Orders may be signed and enrolled in like Manner.

ders of Court,
&c.
15 & 16 Vict.
c. 80. s. 15.

135. The Business to be disposed of by the Master of the Rolls and the Vice-Chancellor respectively while sitting at Chambers shall consist of such Matters as the Judge shall from Time to Time think may be more conveniently disposed of in Chambers than in open Court, or as may from Time to Time be directed by any General Order of the Court.

Business to
be disposed
of in Cham-
bers by the
Judges.
15 & 16 Vict.
c. 80. s. 26.

136. It shall be lawful for the Master of the Rolls and the Vice-Chancellor respectively when sitting in open Court to adjourn for Consideration in Chambers any Matter which, in the Opinion of such Judge, may be more conveniently disposed of in Chambers, or, when sitting in Chambers, to direct any Matter to be heard in open Court which he may think ought to be so heard.

Judges may
adjourn
from open
Court to
Chambers,
and vice
versâ, the
Considera-
tion of any
Matter.

15 & 16 Vict.
c. 80. s. 27.

137. The Mode of Proceeding before the Master of the Rolls and Vice-Chancellor respectively at Chambers shall be by Summons, and shall be regulated according to such Form and in such Manner as shall be prescribed by a General Order of the Court.

Mode of Pro-
ceeding before
Judges at
Chambers to be
by Summons.
15 & 16 Vict.
c. 80. s. 28.

138. From and after the *Day of* *One thou-*
sand eight hundred and the Master of the Rolls and
the Vice-Chancellor respectively shall have the sole Power (subject
to any General Orders to be made on the Subject) to order what
Matters and Things shall be investigated by and before their
respective Chief Clerks, either with or without their Direction,
during their Progress, and what Matters and Things shall be heard
and investigated by themselves, and particularly, if the Judge shall
so direct, his Chief Clerk shall take Accounts and make such
Inquiries as have usually been prosecuted before the Examiners of
the present Masters; and the Judge shall give such Aid and Direc-
tions in every or any such Account or Inquiry as he may think
proper, but subject nevertheless to the Right herein-after provided
for the Suitor to bring any particular Point before the Judge
himself.

Power to the
Judges to
direct what
Matters, &c.
shall be
heard and
investigated
by them-
selves, and
what by
their Chief
Clerks.

Right to
Suitor to
bring any
Point before
the Judge.

15 & 16 Vict.
c. 80. s. 29.

139. Each Chief Clerk shall, for the Purpose of any Proceedings directed by the Master of the Rolls or the Vice-Chancellor to be taken before him, have full Power to issue Advertisements, to summon Parties and Witnesses, to administer Oaths, to take Affidavits and Acknowledgments, other than Acknowledgments by married Women, to receive Affirmations, and, when so directed by the Judge to whose Court he is attached, to examine Parties and Witnesses either upon Interrogatories or vivâ voce, as such Judge

Power to
Chief Clerks
to issue Ad-
vertisements
and Sum-
mons, to
administer
Oaths, &c.,
as the Judge
shall direct.
15 & 16 Vict.
c. 80. s. 30.

shall direct, but only as to Matters of Account or formal Matters, and not as to any controverted Questions of Fact upon which the Decision of the Judge shall be required.

Parties, &c.
not attending
liable to
Process of
Contempt
and to
Penalties
for false
swearing,
&c.

15 & 16 Vict.
c. 80. s. 31.

140. Parties and Witnesses so summoned shall be bound to attend in pursuance of any such Summons, and shall be liable to 5
Process of Contempt, in like Manner as Parties or Witnesses are
now liable thereto in case of Disobedience to any Order of the
Court, or in case of Default in Attendance, in pursuance of any
Order of the Court, or of any Writ of Subpœna ad testificandum;
and all Persons swearing or affirming before any such Chief Clerk 10
shall be liable to all such Penalties, Punishments, and Consequences
for any wilful or corrupt false swearing or affirming contained
therein as if the Matters sworn or affirmed had been sworn and
affirmed before any Person now by Law authorized to administer
Oaths, to take Affidavits, and to receive Affirmations. 15

Result of
Proceedings
before Chief
Clerk to be
embodied in
Form of
short Cer-
tificate, &c.
15 & 16 Vict.
c. 80. s. 32.

141. The Directions to be given by the Master of the Rolls or
the Vice-Chancellor for or touching any Proceedings before his
Chief Clerk shall require no particular Form, but the Result of
such Proceeding shall be stated in the Shape of a short Certificate 20
to the Judge, and shall not be embodied in a formal Report, unless
in any Case the Judge shall see fit so to direct; and when the Judge
shall approve of such Certificate or Report he shall sign the same,
in testimony of his adopting the same.

No Excep-
tions to lie
to Certifi-
cate, &c.
Parties at
liberty to
take Opinion
of Judge
upon any
particular
Point.
15 & 16 Vict.
c. 80. s. 33.

142. No Exceptions shall lie to any Certificate or Report of the
Chief Clerk, although signed and adopted by the Judge, but any 25
Party shall, either during the Proceedings before such Chief Clerk,
or within such Time after such Proceedings shall have been con-
cluded, and before the Certificate or Report shall have been signed
and adopted, as the Court shall by any General Order direct, be at
liberty to take the Opinion of the Judge upon any particular Point 30
or Matter arising in the course of the Proceedings, or upon the
Result of the whole Proceeding when it is brought by the Chief
Clerk to a Conclusion.

Certificate,
&c. signed
and adopted
by Judge
binding on
all Parties,
unless dis-
charged or
varied.
15 & 16 Vict.
c. 80. s. 34.

143. When any Certificate or Report of the Chief Clerk shall
have been signed and adopted by the Judge, the same shall be filed 35
in like Manner as Reports are now filed, and shall thenceforth be
binding on all the Parties to the Proceedings, unless discharged or
varied, either at Chamber or in open Court, according to the Nature
of the Case, upon Application by Summons or Motion within such
Time as shall be prescribed in that Behalf by any General Order of 40
the Court; and nothing herein contained shall prejudice or affect
the Power of the Court at any Time to open any such Certificate

or

or Report, upon the same or the like Grounds as any Report of a Master of the said Court which has been absolutely confirmed may now be opened.

144. From and after the *One* All Powers
 5 *thousand eight hundred and* all or any of the Powers, possessed by
 Authorities, and Jurisdiction given to the Masters in Ordinary of the Masters to
 said Court by any Act or Acts then in force may be exercised by be exercised
 the Master of the Rolls and the Vice-Chancellor respectively. by Judges.
 15 & 16 Vict.
 c. 80. s. 36.

145. From and after the *Day of* Power to
 10 the Powers given to the Masters in Ordinary of the said Court and Judges to
 to the Court by Sections 31. 32, 33, 34, 35, 36, 37, and 38, of this exercise the
 Act, may be exercised by the Master of the Rolls and Vice-Chan- Powers
 cellor respectively with respect to Causes, Matters, and Things given by
 which may be depending before them respectively in Chambers; Sections 31.
 15 and if and when any such Judge shall be of opinion that any Cause, to 38. inclu-
 Matter, or Thing so depending ought to be finally disposed of, sive of this
 unless the Parties or some of them can show good Cause to the Act, and to
 contrary, he shall direct the same to stand in his Paper in open dispose of
 Court, giving such Notice thereof, if any, as he shall deem right, any Cause,
 20 and proceed to dispose thereof accordingly. &c. in open
 Court.
 15 & 16 Vict.
 c. 80. s. 37.

146. And whereas it is expedient to provide Means for enabling Court or
 Executors or Administrators of deceased Parties to ascertain whether Judge, on
 there are any outstanding Debts or Liabilities affecting the Personal Application
 Estates of such Persons, without the Delay and Expense of Suits to of Executors
 25 administer such Estates: Be it therefore enacted, That upon the or Adminis-
 Application of the Executors or Administrators of any deceased trators, may
 Person at any Time after Probate or Letters of Administration shall by Order
 have been granted, it shall be lawful for the Court or Judge, upon of Course
 a Summons in the Form used for originating Proceedings at direct an
 30 Chambers, by an Order in the Form or to the Effect set forth in Account of
 the Schedule (B.) to this Act, with such Variations as Circum- Debts and
 stances may require, to direct that an Account shall be taken of Liabilities
 the Debts and Liabilities affecting the Personal Estate of such to be taken.
 35 the Court or Judge may, on the Application of the Executors 13 & 14 Vict.
 or Administrators, restrain or suspend, until the Account directed c. 35. s. 19.
 by such Order shall have been taken, any Proceedings at Law 23 & 24 Vict.
 against such Executors or Administrators by any Person having c. 38. s. 14.
 40 upon such Terms and Conditions, if any, as to the Court or Judge
 shall seem just; and the Judge in taking an Account of the Debts
 and Liabilities pursuant to such Order shall, on the Application of

the Executors or Administrators, be at liberty to direct that the Particulars only of any Claim or Claims which may be brought in pursuance of any such Order shall be certified by his Chief Clerk, without any Adjudication thereon; and any Notices for Creditors to come in which may be published in pursuance of any such Order 5 shall have the same Force and Effect as if such Notices had been given by the Executors or Administrators in pursuance of the Twenty-ninth Section of the Act of the Twenty-second and Twenty-third Years of Victoria, Chapter Thirty-five: Provided always, that no such Order shall be made pending any Proceedings 10 to administer the Estate of such Person; and that in case at any Time after the making of such Order any Decree or Order for administering the Estate of such deceased Person shall be made, it shall be lawful for the said Court by such Decree or Order to stay or suspend the Proceedings under such Order of Course on such 15 Terms and Conditions, if any, as to the said Court shall seem just.

Certificate
of Chief
Clerk may
be objected
to by Appli-
cation to the
Court or
Judge, of
which
Notice shall
be given.
13 & 14 Vict.
c. 35. s. 20.

147. It shall be lawful for any Person who may have come in under any such Order, and claim to be a Creditor upon the Estate of the deceased Person, or to have any Demand upon such Estate by reason of any Liability, and whose Debt or Claim may not have 20 been wholly allowed by the Chief Clerk, to apply to the Court or Judge, in such Manner and within such Time as shall be provided by a General Order of the Court, to have such Claim allowed, either wholly or partially; and it shall be lawful for the said Executors or Administrators, and for any Creditor of the deceased Person who 25 may be authorized by special Leave of the Court or Judge so to do, to apply to the Court or Judge to have any Debt or Claim allowed which has been disallowed by the Chief Clerk, either wholly or partially; but, save as to any Debt or Claim as to which any such Notice as aforesaid may have been given, the Certificate 30 or Report of the Chief Clerk shall, upon the filing of the Certificate or Report, be absolute: Provided always, that upon the Hearing of any such Application as aforesaid the Court or Judge may either dismiss such Application, or may order the Debt or Claim to which such Application relates to be allowed or disallowed, as the 35 Case may be, and either wholly or partially, or may direct further Inquiry or further Proceedings, by way of Action or otherwise, touching such Debt or Claim, and after such Inquiry or Proceedings may deal with such Debt or Claim as to the Court or Judge shall seem just. 40

Proceeding
of the Court
on such
Motion.
13 & 14 Vict.
c. 35. s. 21.

If Debts or
certain
Liabilities
allowed, and

148. In case any Debt or any certain Liability shall have been allowed as aforesaid, and shall not, within such Time as shall be prescribed by a General Order of the Court, be paid or provided for
by

- by Appropriation to the Satisfaction of the Person who has established such Liability, it shall be lawful for the Court or Judge, by Order, to be made in case of any Debt remaining due upon the Application of the Person to whom the Debt remains due; and on
- 5 Notice to the Executors or Administrators, and in case of any certain Liability remaining unprovided for, by Appropriation upon the Application of the Person by whom such Liability has been established, or of the Executors or Administrators, and on Notice by the Party applying to the other of them, to order Payment of the
- 10 Debts which may have been allowed and remain unpaid, and to provide for the certain Liabilities which may have been allowed and remain unprovided for, in like Manner as the same could or might have been paid or provided for in a Suit for that Purpose instituted by Bill, or to direct an Account to be taken of the Debts
- 15 and certain Liabilities allowed as aforesaid which remain unpaid or unprovided for, and also the usual Accounts of the Personal Estate of the deceased Person, with all usual and proper Directions; and every such Order shall have the same Force and Effect and shall be prosecuted and carried on in like Manner as a Decree in a Creditor's
- 20 Suit instituted by Bill.

not paid or provided for, Order may be made for Payment of Accounts.

13 & 14 Vict. c. 35. s. 22.

149. In case any contingent Liability shall be duly allowed as aforesaid, it shall be lawful for the Court or Judge, by Order, to be made upon the Application of the Executors or Administrators, on Notice to the Person who may have established such contingent
- 25 Liability, to order such Sum of Money, Part of the Estate of the deceased Person, as to the Court or Judge shall seem just, to be set apart and appropriated for answering such contingent Liability, and to give such Directions as the Court or Judge shall think fit touching the Payment of such Sum of Money into Court, and
- 30 the Investment thereof, and the Payment, Application, or Accumulation of the Interest or Dividends thereof in the meantime and until the same shall be required to answer such Liability, and when such Liability shall be ascertained or determined, to give such Directions as to the Payment of such Sum out of Court as the
- 35 Court or Judge shall deem right: Provided always, that no Order to be made as aforesaid shall in any Manner bind the Assets so appropriated as against the Persons entitled to the Estate of the Deceased, subject to the contingent Liability; and any Person interested in such appropriated Assets may apply to the Court touching the same
- 40 as he may be advised.

Court or Judge, on Application of Executors or Administrators, may direct Appropriation of Money to answer contingent Liability.

13 & 14 Vict. c. 35. s. 23.

150. That after the filing of such Certificate or Report as aforesaid it shall be lawful for the Court or Judge, upon the Application of the Executors or Administrators of the Deceased, by Order,

Court may restrain Proceedings against Executors

or Admi-
nistrators.
13 & 14 Vict.
c. 35. s. 24.

to restrain by Injunction any Proceedings at Law against them by any Person having or claiming to have any Demand upon the Estate of the Deceased by reason of any Debt or Liability, other than the Persons who may have established contingent Liabilities under the said Order for which no Appropriation may have been 5 made.

Protection
to be
afforded to
Executors
and Admi-
nistrators.
13 & 14 Vict.
c. 35. s. 25.

151. In case no Debt or Liability, or no Debt or Liability other than a contingent Liability, shall have been allowed as aforesaid, or in case any Debt or Liability other than as aforesaid shall have been allowed as aforesaid, then after the same shall have been paid 10 or provided for by Appropriation as aforesaid, all Payments made by the Executors or Administrators, or any of them, on account of the Estate of the deceased Person, and all Dispositions of such Assets made by them or any of them on account of such Estate, shall, as against all Persons having or claiming to have any Demand upon 15 such Estate by reason of any Debt or Liability, other than Persons who may have established under the said Order any contingent Liability for which no such Appropriation as aforesaid may have been made, be as good and effectual as if the same had been made under a Decree of the Court: Provided always, that nothing 20 herein contained shall in any Manner affect or prejudice the Rights of any Creditor or other Person having any Demand or Claim upon the Estate of the Deceased against any Assets so paid or disposed of, or against the Persons to whom such Payment or Disposition may have been made, or against any Assets appropriated under the 25 Provisions of this Act, and the Appropriation of which, if made under a Decree of the said Court in a Suit to which he was not a Party, would not have been binding upon him.

Creditor, &c.
may sum-
mon Execu-
tor, &c. to
show Cause
why an
Order for
Administra-
tion of Per-
sonal Estate
should not
be granted.
Power to
Judge to
order Admi-
nistration of
such Estate.
15 & 16 Vict.
c. 86. s. 45.

152. It shall be lawful for any Person claiming to be a Creditor, or a specific, pecuniary, or residuary Legatee, or the Next of Kin, or 30 some or One of the Next of Kin of a deceased Person, to apply for and obtain as of course, without Bill filed or any other preliminary Proceedings, a Summons from the Master of the Rolls or the Vice-Chancellor, requiring the Executor or Administrator, as the Case may be, of such deceased Person, to attend before him at Chambers, 35 for the Purpose of showing Cause why an Order for the Administration of the Personal Estate of the Deceased should not be granted; and upon Proof by Affidavit of the due Service of such Summons, or on the Appearance in Person or by his Solicitor or Counsel of such Executor or Administrator, and upon Proof by Affidavit of 40 such other Matters, if any, as such Judge shall require, it shall be lawful for such Judge, if in his Discretion he shall think fit so to do, to make the usual Order for the Administration of the Estate of

of the Deceased, with such Variations, if any, as the Circumstances of the Case may require; and the Order so made shall have the Force and Effect of a Decree to the like Effect made on the Hearing of a Cause between the same Parties; provided that such Judge shall have full discretionary Power to grant or refuse such Order, or to give any special Directions touching the Carriage or Execution of such Order, and in the Case of Applications for any such Order by Two or more different Persons or Classes of Persons, to grant the same to such One or more of the Claimants, or of the Classes of Claimants, as he may think fit; and if the Judge shall think proper the Carriage of the Order may subsequently be given to such Party interested, and upon such Terms as the Judge may direct.

153. A Duplicate or Copy of such Summons shall, previously to the Service thereof, be filed in the Office of the Deputy Keeper of the Rolls; and no Service thereof upon any Executor or Administrator shall be of any Validity unless the Copy so served shall be stamped with a Stamp of such Office indicating the filing thereof; and such Summons may be registered under the Provisions of the Act mentioned in the 128th Section of this present Act; and the filing and Registration of such Summons shall have the same Effect with respect to *Lis pendens* as the filing and Registration of a Bill.

Copy of Summons to be filed in the Office of the Deputy Keeper of the Rolls.
15 & 16 Vict. c. 86. s. 46.

154. It shall be lawful for any Person claiming to be a Creditor of any deceased Person, or interested under his Will, to apply for and obtain in a summary Way, in the Manner herein-before provided with respect to the Personal Estate of a deceased Person, an Order for the Administration of the Real Estate of a deceased Person where the whole of the Real Estate so sought to be administered is by Devise vested in Trustees who are by the Will empowered to sell such Real Estate, and authorized to give Receipts for the Rents and Profits thereof, and for the Produce of the Sale of such Real Estate, or where the Real Estate of such Person is otherwise liable to be sold for Payment of the Demand of the Person so applying; and all the Provisions herein-before contained with respect to the Application for such Order at the Suit of a Creditor in relation to the Personal Estate of a deceased Person, and consequent thereon, shall extend and be applicable to an Application for such Order as last herein-before mentioned with respect to Real Estate; and such Application and Proceeding may be combined with an Application and Proceeding for the Administration of the Personal Estate of the same Person where it is necessary or proper that such Real and Personal Estate shall be administered together.

Creditor, &c. may obtain an Order for Administration of Real Estate.
15 & 16 Vict. c. 86. s. 47.

Suit not to be dismissed for Misjoinder of Plaintiffs, but Court may modify its Decree according to special Circumstances. 15 & 16 Vict. c. 86. s. 49.

155. No Suit in the Court commenced by Bill shall be dismissed by reason only of the Misjoinder of Persons as Plaintiffs therein; but whenever it shall appear to the Court, that, notwithstanding the Conflict of Interest in the Co-plaintiffs, or the Want of Interest in some of the Plaintiffs, or the Existence of some Ground 5 of Defence affecting some or One of the Plaintiffs, the Plaintiffs, or some or One of them, are or is entitled to Relief, the Court shall have Power to grant such Relief, and to modify its Decree, according to the special Circumstances of the Case, and for that Purpose to direct such Amendments, if any, as may be necessary, and at 10 the Hearing, before such Amendments are made, to treat any One or more of the Plaintiffs as if he or they was or were a Defendant or Defendants in the Suit, and the remaining or other Plaintiff or Plaintiffs was or were only Plaintiff or Plaintiffs on the Record; and where there is a Misjoinder of Plaintiffs, and the 15 Plaintiff having an Interest shall have died, leaving a Plaintiff on the Record without an Interest, the Court may, at the Hearing of the Cause, order the Cause to stand revived as may appear just, and proceed to a Decision of the Cause, if it shall see fit, and to give such Directions as to Costs or otherwise as may appear just 20 and expedient.

No Suit to be objected to because only declaratory Order sought.

15 & 16 Vict. c. 86. s. 50.

Court may decide between some of the Parties without making others interested Parties to the Suit.

156. No Suit in the Court shall be open to Objection on the Ground that a merely declaratory Decree or Order is sought thereby, and it shall be lawful for the Court to make binding Declarations of Right without granting consequential Relief. 25

Proviso. 15 & 16 Vict. c. 86. s. 51.

157. It shall be lawful for the Court to adjudicate on Questions arising between Parties; notwithstanding that they may be some only of the Parties interested in the Property respecting which the Question may have arisen, or that the Property in question is comprised with other Property in the same Settlement, Will, or other 30 Instrument, without making the other Parties interested in the Property respecting which the Question may have arisen, or interested under the same Settlement, Will, or other Instrument, Parties to the Suit, and without requiring the whole Trusts and Purposes of the Settlement, Will, or other Instrument to be exe- 35 cuted under the Direction of the Court, and without taking the Accounts of the Trustees or other accounting Parties, or ascertaining the Particulars or Amount of the Property touching which the Question or Questions may have arisen: Provided always, that if the Court shall be of opinion that the Application is fraudulent 40 or collusive, or for some other Reason ought not to be entertained, it shall have Power to refuse to make the Order prayed.

In case of Abatement, &c, of Suit,

158. Upon any Suit in the said Court commenced by Bill becoming abated by Death, Marriage, or otherwise, or defective by reason

reason of some Change or Transmission of Interest or Liability, it shall not be necessary to exhibit any Bill of Revivor or Supplemental Bill in order to obtain the usual Order to revive such Suit, or the usual or necessary Decree or Order to carry on the Proceedings; but an Order to the effect of the usual Order to revive or of the usual Supplemental Decree may be obtained as of course upon an Allegation of the Abatement of such Suit, or of the same having become defective, and of the Change or Transmission of Interest or Liability; and an Order so obtained, when served upon the Party or Parties who according to the present Practice of the Court would be Defendant or Defendants to the Bill of Revivor or Supplemental Bill, shall from the Time of such Service be binding on such Party or Parties in the same Manner in every respect as if such Order had been regularly obtained according to the existing Practice of the said Court; and such Party or Parties shall thenceforth become a Party or Parties to the Suit, and shall be bound to enter an Appearance thereto in the Office of the Clerk of Appearances and Writs within such Time and in like Manner as if he or they had been duly served with Process to appear to a Bill of Revivor or Supplemental Bill filed against him: Provided that it shall be open to the Party or Parties so served, within such Time after Service as shall be in that Behalf prescribed by any General Order of the Court, to apply to the Court by Motion or Petition to discharge such Order on any Ground which would have been open to him on a Bill of Revivor or Supplemental Bill, stating the previous Proceedings in the Suit, and the alleged Change or Transmission of Interest or Liability, and praying the usual Relief consequent thereon: Provided also, that if any Party so served shall be under any Disability other than Coverture, such Order shall be of no Force or Effect as against such Party until a Guardian or Guardians ad litem shall have been duly appointed for such Party, and such Time shall have elapsed thereafter as shall be prescribed by any General Order of the Court in that Behalf.

an Order may be made, which shall have the same Effect as a Bill of Revivor. 15 & 16 Vict. c. 86. s. 52.

159. It shall not be necessary to exhibit any Supplemental Bill in the Court for the Purpose only of stating or putting in issue Facts or Circumstances which may have occurred after the Institution of any Suit, but such Facts or Circumstances may be introduced by way of Amendment into the original Bill of Complaint in the Suit if the Cause is otherwise in such a State as to allow of an Amendment being made in the Bill, and if not the Plaintiff shall be at liberty to state such Facts or Circumstances on the Record, in such Manner and subject to such Rules and Regulations with respect to the Proof thereof, and the affording the Defendant Leave and Opportunity of answering and meeting the same, as shall in that Behalf be prescribed by any General Order of the Court.

New Facts, &c. after Commencement of Suit to be introduced as Amendments to Bill, &c. 15 & 16 Vict. c. 86. s. 53.

Where
Account
required to
be taken,
Court may
give special
Directions as
to the Mode
of taking
same.
15 & 16 Vict.
c. 86. s. 54.

160. It shall be lawful for the Court in any Case where any Account is required to be taken to give such special Directions, if any, as it may think fit, with respect to the Mode in which the Account should be taken or vouched, and such special Directions may be given either by the Decree or Order directing such Account, 5 or by any subsequent Order or Orders, upon its appearing to the Court that the Circumstances of the Case are such as to require such special Directions; and particularly it shall be lawful for the Court, in Cases where it shall think fit so to do, to direct that in taking the Account the Books of Account in which the Accounts 10 required to be taken have been kept, or any of them, shall be taken as *prima facie* Evidence of the Truth of the Matters therein contained, with Liberty to the Parties interested to take such Objections thereto as they may be advised.

Where Real
or Personal
Property is
the Subject
of Proceed-
ings, Court
may allow to
Parties Part
or the whole
of the annual
Income.
15 & 16 Vict.
c. 86. s. 57.

161. Where any Real or Personal Property shall form the Subject 15 of any Proceedings in the Court of Chancery, and the Court shall be satisfied that the same will be more than sufficient to answer all the Claims thereon which ought to be provided for in such Suit, it shall be lawful for the said Court, at any Time after the Commencement of such Proceedings, to allow to the Parties interested therein, or any 20 One or more of them, the whole or Part of the annual Income of such Real Property, or a Part of such Personal Property, or a Part or the whole of the Income thereof, up to such Time as the said Court shall direct, and for that Purpose to make such Orders as may appear to the said Court necessary or expedient. 25

Answer of
Defendant
on Motion
for Injunc-
tion, or Re-
ceiver, &c. to
be regarded
as an Affi-
davit.
15 & 16 Vict.
c. 86. s. 59.

162. Upon Application by Motion or Petition to the Court in any Suit depending therein for an Injunction or a Receiver, or to dissolve an Injunction, or discharge an Order appointing a Receiver, the Answer of the Defendant shall, for the Purpose of Evidence on such Motion or Petition, be regarded merely as an Affidavit of 30 the Defendant, and Affidavits may be received and read in opposition thereto.

Power to
obtain the
Assistance of
Account-
ants, Mer-
chants, &c.
15 & 16 Vict.
c. 80. s. 42.

163. It shall be lawful for the Court, in such Way as they may think fit, to obtain the Assistance of Accountants, Merchants, Engineers, Actuaries, or other scientific Persons, the better to 35 enable such Court to determine any Matter at issue in any Cause or Proceeding, and to act upon the Certificate of such Persons.

Taxing
Master to
regulate
Fees to
Account-
ants, &c.,

164. The Allowances in respect of Fees to such Accountants, Merchants, Engineers, Actuaries, and other scientific Persons shall be regulated by the Taxing Master of the Court, subject to an 40 Appeal

Appeal to the Court to which the Cause or Matter shall be attached, subject to Appeal.
whose Decision shall be final. 15 & 16 Vict. c. 80. s. 48.

165. In case any of the Directions herein contained with respect to the Practice and Course of Proceeding in the Court shall by In case Directions as to Practice, &c. not followed, Court may make Order and award Costs. 15 & 16 Vict. c. 86. s. 60.

5 Mistake of Parties fail to be followed in any Suit, it shall be lawful for the said Court, if it shall think fit, upon Payment of such Costs as such Court shall direct, to make such Order giving effect to and rectifying such Proceedings as may be justified by the Merits of the Case.

10 166. When by any Decree or Order Costs shall be ordered to be paid to any Person, and the Person to whom such Costs shall be ordered to be paid shall die before such Costs shall have been taxed or the Amount thereof ascertained, such Costs may be taxed and ascertained by the Taxing Master, notwithstanding the Death of such Person, on the Application of his personal Representative. Costs may be taxed, notwithstanding the Death of Person to whom they are awarded.

15 of such Person, on the Application of his personal Representative.

167. When by any Decree or Order Costs shall be ordered to be paid by any Person, and in consequence of the Death of such Person such Costs cannot, according to the existing Law or Practice, be taxed or ascertained, it shall be lawful for the Court, on the Application of the Person entitled to such Costs, to direct the Taxing Master to tax and ascertain the same, upon Service of a Summons upon the personal Representative of the Person by whom such Costs have been ordered to be paid, or such Person as the Court shall appoint to represent the Estate of such deceased Person. Costs may be taxed notwithstanding Death of Person by whom they are payable.

20 cation of the Person entitled to such Costs, to direct the Taxing Master to tax and ascertain the same, upon Service of a Summons upon the personal Representative of the Person by whom such Costs have been ordered to be paid, or such Person as the Court shall appoint to represent the Estate of such deceased Person.

25 168. Summonses to tax Costs, pursuant to the Two last preceding Sections of this Act, shall be served in like Manner as ordinary Summonses issued by the Taxing Master, or in such Manner as the Taxing Master shall by any Writing to be signed by him direct. Summons to tax to be served in ordinary Way.

30 169. The Taxing Master may proceed ex parte with such Taxation, in case the Person served with such Summons shall not, by himself or his Solicitor, attend pursuant thereto. Taxing Master may proceed ex parte.

170. All Costs taxed and ascertained under the Provisions of this Act may be recovered in like Manner as if the same had been taxed and ascertained in the Lifetime of the Person to whom or by whom the same shall have been awarded to be paid, or of the Person in consequence of whose Death the same could not, according to the existing Law or Practice, have been taxed or ascertained, any Law or Practice to the contrary notwithstanding. Taxed Costs may be recovered.

35 whom or by whom the same shall have been awarded to be paid, or of the Person in consequence of whose Death the same could not, according to the existing Law or Practice, have been taxed or ascertained, any Law or Practice to the contrary notwithstanding.

Court of
Chancery
may sum-
marily re-
strain the
Bank of
Ireland, &c.
from per-
mitting
Transfer of
Stock, &c.
5 Vict. c. 5.
s. 4.

171. That on and after the *20th* Day of *October* it shall be lawful for the said Court of Chancery, upon the Application of any Party interested, by Motion or Petition in a summary Way, without Bill filed, to restrain the Governor and Company of the Bank of Ireland, or any other public Company in Ireland, whether 5 incorporated or not, from permitting the Transfer of any Stock in the Public Funds or any Stock or Shares in any public Company which may be standing in the Name or Names of any Person or Persons or Body Politic or Corporate in the Books of the Governor and Company of the Bank of Ireland or in the Books of any such 10 public Company, or from paying any Dividend or Dividends due or to become due thereon: Every Order of the said Court of Chancery upon such Motion or Petition as aforesaid shall specify the Amount of the Stock or the particular Shares to be affected thereby, and the Name or Names of the Person or Persons, Body Politic or 15 Corporate, in which the same shall be standing: Provided always, that the said Court of Chancery shall have full Power, upon the Application of any Party interested, to discharge or vary such Order and to award such Costs, upon such Application, as to the said Court shall seem fit. 20

Persons
claiming
Government
Stock stand-
ing in the
Name of
another may
sue out Writ
of Injunction
to restrain
the Transfer.
5 Vict. c. 5.
s. 5.

172. On and after the *20th* Day of *October* it shall be lawful for any Person claiming any Interest in any Government Stock transferable at the Bank of Ireland, standing in the Name or Names of any Person or Persons, or Body Politic or Corporate, in the Books of the Governor and Company of the Bank of Ireland, 25 to sue out of the Office of the Clerk of Appearances and Writs a statutory Writ of Injunction, in the Form set forth in the Schedule (B.) to this Act, to restrain the Bank from permitting the Transfer of the said Stock or the Payment of the Dividends thereof, and the same shall be served upon the Secretary of the Bank within *Four* 30 *Days* after the issuing of the same, or else the same shall be void, and Notice of the suing out and Service of such Writ shall be given by the Person suing out the same immediately after the Service thereof to the Person or Persons or the proper Officer of the Corporation in whose Name or Names the said Stock shall be 35 standing.

After Ser-
vice of Writ
Bank not to
permit
Transfers or
Payment of
Dividends.

173. From and after the Service of the said Writ as herein- before provided it shall not be lawful for the said Governor and Company to permit the said Stock to be transferred or to pay the Dividends thereof until the said Writ shall have been discharged or 40 shall have lapsed as herein-after provided.

Application
to Court to
discharge
such Writs.

174. It shall be lawful for the Person, Persons, or Corporation in whose Name or Names the said Stock shall be standing, or any other

other Person interested therein, or in the Dividends thereof to apply to the Court in a summary Way to discharge the said Writ, which the Court shall have Power to do, and to award such Costs upon such Application as to the Court shall seem fit, and the said Writ may be discharged by an Order for that Purpose made in any Suit or other Proceeding, if the Court shall think fit.

175. The Person or Persons or Corporation in whose Name or Names the said Stock shall be standing, or the Executors or Administrators of such Person or Persons, may by himself or themselves, or some Person on their or his Behalf, in Writing, request the said Governor and Company to permit the said Stock to be transferred or pay the said Dividends, notwithstanding such Writ, and the said Governor and Company shall thereupon notify in Writing to the Person who has sued out such Writ that such Request has been made, and unless such Person shall within *Eight Days* after such Notification obtain and serve upon the said Governor and Company a Writ of Injunction, issued by Order of the Court upon Motion or Petition in some Suit or Matter then pending, the said statutory Writ shall at the Expiration of the said *Eight Days* be deemed to have lapsed, and the said Governor and Company may thereupon permit the said Stock to be transferred and the said Dividends to be paid as if the same had not been issued.

Persons interested in Stock may, notwithstanding such Writ, request Transfer to be made; whereupon Bank to notify such Request to Parties by whom Writ sued out.

176. Notwithstanding anything herein-before contained, all Suits which on the *Day of* shall be pending in the said Court, and all Suits commenced before the last-mentioned Day, which shall after that Day be continued or prosecuted in the Court, shall be so conducted, continued, or prosecuted in the same Manner and according to the same Practice as if this Act had not passed: Provided always, that it shall be lawful for the Lord Chancellor, by an Order to be made upon Motion or Petition in any particular Suit, to direct that the whole or any Part of the further Proceedings in such Suit shall thenceforth be continued, carried on, and prosecuted according to the Practice in force for the Conduct of Suits commenced after the *Day of*

Pending Suits to be prosecuted according to present Practice.

177. The Lord Chancellor, with the Advice and Assistance of the Master of the Rolls, the Lord Justice of the Court of Appeal in Chancery, and the Vice-Chancellor, or any Two of them, may and they are hereby required from Time to Time to make General Rules and Orders for carrying the Purposes of this Act into effect, and for regulating the Times and Forms and Course of Procedure, and the Mode of taking Evidence in Suits, and generally the Prac-

Lord Chancellor and Judges to make General Rules and Orders for carrying Purposes of this Act into effect.

tice of the said Court in respect of the Matters to which this Act relates, and for regulating the Fees and Allowances to all Officers of the said Court and Solicitors thereof in respect to such Matters, and the Costs of any Proceedings under or in pursuance of this Act, including the fixing of a higher and lower Scale of Costs, Fees, and Allowances according to the Nature of such Proceedings, and the Amount involved, and for altering if necessary the Course of Proceeding herein-before prescribed in respect to the Matters to which this Act relates, or any of them; and such Rules and Orders may from Time to Time be rescinded or altered by the like Authority; and all such Rules and Orders shall be and take effect as General Orders of the said Court: Provided always, that in making such General Orders regard shall be had to establishing and preserving, so far as may be, Uniformity of Practice and Procedure in the Courts of Chancery in England and Ireland. 15

Such General Rules and Orders to be laid before Parliament.

178. All such General Orders as aforesaid shall immediately after the making and issuing thereof be laid before both Houses of Parliament, if Parliament be then sitting, or if Parliament be not then sitting within *Five Days* after the next Meeting thereof: Provided always, that if either of the Houses of Parliament shall, by any Resolution passed within *Thirty-six Days* after such General Orders have been laid before such Houses of Parliament, resolve that the whole or any Part of such General Orders ought not to continue in force, in such Case the whole, or such Part thereof as shall be so included in such Resolution, shall from and after such Resolution cease to be binding. 25

PART IV.

Fees and Stamps.

Power to the Court, with the Assent of the Lords Commissioners of Her Majesty's Treasury, to allow the Chancery Fund Duties payable under 4 G. 4. c. 78.

PART IV.

Fees and Stamps.

179. Whereas the Alterations in the Practice and Course of Procedure in the said Court will affect the Duties at present levied in respect of Proceedings in the said Court under the Name of Chancery Fund Duties, and in pursuance of the Provisions of an Act passed in the Fourth Year of the Reign of His late Majesty King George the Fourth, intituled "An Act to grant additional Stamp Duties on certain Proceedings in the Court of Chancery and in the Equity Side of the Court of Exchequer in Ireland," and it is essential that Power should be given to the Court, with the Consent of the Lords Commissioners of Her Majesty's Treasury, to modify such Duties, so as to adapt the same to the Practice and Course of Procedure to be introduced pursuant to this Act: Be it enacted, That it shall be lawful for the Court, by any General Orders to

to be made as by this Act directed, and with the Consent of the Lords Commissioners of Her Majesty's Treasury, to vary, reduce, or abolish all or any of the Chancery Fund Duties now payable in relation to Proceedings in the said Court, and to substitute One or
 5 more Duty or Duties in lieu thereof, and the Court shall have full Power by any such General Orders from Time to Time to abolish any such Duties as aforesaid, anything in any Act or Acts relating to such Duties to the contrary notwithstanding.

180. From and after the Day of the Fees
 10 now payable in relation to Proceedings in the Court of Chancery in Ireland, and which are received in Money, and accounted for to Her Majesty's Treasury, shall be no longer received in Money, but shall be added to "The Chancery Fund" Duties at present payable in respect of such Proceedings, and such Fees shall be subject to be
 15 varied, reduced, or abolished in the Manner heretofore provided in respect of such Chancery Fund Duties; and all the Provisions at present in force in relation to the Collection and accounting for the said Chancery Fund Duties shall apply to the Collection and accounting for the said Fees.

Fees now payable in respect of Proceedings in Court, and accounted for to the Treasury, to be added to the Chancery Fund Duties.

20 181. From and after the Day of the Fees
in relation to Proceedings in the said Court now received in Money, and which are accounted for with the Accountant General of the Court of Chancery in Ireland, for the Credit of the Account called the Suitors Fee Fund Account, shall no longer be received in Money,
 25 *but by a Stamp denoting the Amount of the Fee which otherwise would be payable, and to be called "Chancery Fee Fund Stamp;" and where any Fee shall be payable in respect of any Document, such Stamp shall, at the Expense of the Party liable to pay the Fee, and in such Manner and under such Regulations as shall by any*
 30 *General Order or Orders be directed, be stamped or affixed on the Vellum, Parchment, or Paper on which the Proceeding in respect whereof such Fee is payable is written, printed, or engrossed, or which may be otherwise used in reference to such Proceedings; and all Sums received in respect of such Chancery Fee Fund Stamps*
 35 *shall be accounted for and paid over to the said Accountant General, to be placed by him to the Credit of the Suitors Fee Fund Account of the Court of Chancery in Ireland, in the same Manner as the Fees represented by such Stamps now are.*

Fees which are now accounted for to Suitors Fee Fund to be henceforth received by Stamps.

182. From and after the Day of No
 40 Officer of the Court of Chancery shall be entitled to receive and retain for his own Use any Fee or Reward whatsoever; and all Officers of the Court of Chancery and of the Judges thereof now
 [47.] G 3 entitled

No Officer hereafter to receive Fees for his own Use, but all Officers to be paid by Salary.

entitled to receive and retain any Fees or other Payments for their own Use which by virtue of this Act they will cease so to receive after the *Day of* shall while they continue to hold their respective Offices receive, in lieu of all Fees or other Payments whatsoever now received by or paid or payable to them 5 for their own Use, such Salary as, having regard to the Emoluments heretofore received by them, and to the Nature and Tenure of such Offices, the Lord Chancellor and the Lords Commissioners of Her Majesty's Treasury shall think just; and every such Officer shall in respect of the Salaries so fixed be in the same Position as regards 10 his Superannuation Allowance as if such Fees continued to be payable; and upon the present Holders of such Offices respectively ceasing to hold the same the Lord Chancellor, with the Assent of the Lords Commissioners of Her Majesty's Treasury, shall fix the Salaries to be thereafter received in respect thereof with reference 15 to the Nature and Duties of such Offices respectively.

Officers to continue to receive Fees until Lord Chancellor shall otherwise direct, and pay them into the Suitors Fee Fund.

183. It shall be lawful for all Officers of the Court of Chancery and of the Judges thereof, heretofore entitled to receive any Fees or Emoluments for their own Use, and for their Successors in their respective Offices, and their several and respective Clerks or Agents, 20 to continue to receive and take all and every the Fees and Emoluments which have been accustomed to be paid to them until the Lord Chancellor shall by any Order or Orders otherwise direct; and all such Fees shall no longer be received in Money, but by such Stamps as are herein-before provided, and all Sums received in 25 respect of such Stamps shall be accounted for as herein-before provided; and the Salaries of such Officers shall thenceforth be payable either out of the Suitors Fee Fund or such Monies as shall be provided by Parliament for that Purpose, according as the Lord Chancellor and the Lords Commissioners of Her Majesty's Treasury 30 shall determine.

Power to vary Fees.

184. It shall be lawful for the Court by any General Orders to be made as by this Act directed, and with the Consent of the Lords Commissioners of Her Majesty's Treasury, to vary, reduce, or abolish all or any of the Chancery Fund Duties, Chancery Fee 35 Fund Stamps, into which such Fees as aforesaid may be commuted under this Act, and to substitute One or more Fee or Fees, Stamp or Stamps, in lieu thereof, and to direct that all or any of such Fees or Stamps shall from a Day to be named in such Orders and thenceforth be collected. 40

The Commissioners of Inland

185. The Commissioners of Inland Revenue shall from Time to Time give the necessary Directions for carrying the Provisions of the

the Act and of every General Order of the Court made in pursuance thereof into effect, and shall provide everything that shall be necessary for that Purpose, and shall do or cause to be done everything that shall be necessary for the Receipt and Collection of the Money to be paid for such Stamps; and the said Commissioners shall cause separate and distinct Accounts to be kept of all Sums of Money received or collected by them for such Chancery Fee Fund Stamps, and of all Costs, Charges, and Expenses incurred by them or by their Direction in carrying the Provisions of the Act as to such Chancery Fee Fund Stamps into effect; and it shall be lawful for the said Commissioners to pay and to deduct and retain out of such Monies all such Costs, Charges, and Expenses, and also to deduct all Sums of Money repaid on Allowances for spoiled Stamps, and after such Deduction they shall from Time to Time pay the Monies so to be received and collected into the Bank of Ireland, with the Privity of the Accountant General of the Court of Chancery, to the Credit of the Sutors Fee Fund of the Court of Chancery in Ireland.

Revenue to carry General Orders relating to Fees and Stamps into effect.

15 & 16 Vict. c. 87. s. 8.

186. It shall be lawful for the Commissioners of Inland Revenue from Time to Time to make such Regulations as they shall think fit for the Allowance of such Stamps issued under the Provisions of this Act as may have been spoiled or rendered useless or unfit for the Purpose intended, or for which the Owner may have no immediate Use, or which, through Mistake or Inadvertence, may have been improperly or unnecessarily used; and such Allowance shall be made either by giving other Stamps in lieu of the Stamps so allowed, or by repaying the Amount or Value to the Owner or Holder thereof, after deducting the Discount or Poundage, if any, allowed on the Sale of Stamps of the like Kind.

Commissioners of Inland Revenue may make Regulations as to Allowance for spoiled Stamps.

15 & 16 Vict. c. 87. s. 10.

187. For the Purpose of raising, levying, and collecting the Stamps and other Duties made payable by this Act, the Commissioners of Inland Revenue shall have and be vested with all the Powers and Authorities of the said Act of the Fifth and Sixth Victoria, Chapter Eighty-two, and the Acts therein recited or referred to; and the several Provisions of the said Acts (so far as the same are not inconsistent with this Act) shall be applicable to the Stamps and other Duties to be collected and raised under this Act, and shall be applied and put in execution for collecting and securing the Sums of Money denoted thereby, and for preventing, detecting, and punishing all Frauds, Forgeries, and other Offences relative thereto, as fully and effectually to all Intents and Purposes as if such Provisions had been herein repeated and specially enacted with reference to the said last-mentioned Stamps and Sums of Money respectively.

Commissioners to have Powers in

5 & 6 Vict. c. 82.

15 & 16 Vict. s. 11.

Box Money
to be hence-
forth re-
ceived in
Stamps.

188. *That from and after the Day of the Fees in relation to Proceedings in the said Court, at present received under the Name of Box Money, shall no longer be received in Money, but by a Stamp denoting the Fee which otherwise would be payable, and to be called "The Box Fund Stamp;" and where such Fee shall be payable in respect of any Document such Stamp shall, at the Expense of any Party liable to pay the Fee in such Manner and under such Regulations as shall be directed by any General Order or Orders, be stamped or affixed on the Vellum, Parchment, or Paper on which the Proceedings in respect whereof such Fee is payable are written, printed, or engrossed, or which may be otherwise used in reference to such Proceedings; and all Sums received in respect of such Box Fund Stamps shall be accounted for and paid over to the Accountant General, to be placed by him to the Credit of an Account to be intituled in his Books "The Box Fund Account," and it shall be lawful for the Secretary of the Lord Chancellor from Time to Time to draw upon the Accountant General to the Extent of the Sums from Time to Time standing to the Credit of the Fund, the Sums so drawn to be applied under the Direction of the Lord Chancellor to the same Purposes as the Box Money is now applied.*

No Docu-
ment to be
received or
used unless
stamped.
15 & 16 Vict.
c. 87. s. 12.

189. No Document which by any such General Orders as aforesaid shall be required to have a Stamp impressed thereon or affixed thereto shall be received or filed, or be used in relation to any Proceeding in the Court of Chancery, or be of any Validity for any Purpose whatsoever, unless or until the same shall have a Stamp impressed thereon or affixed thereto, in the Manner directed by such Order: Provided always, that if at any Time it shall appear that any such Document which ought to have had a Stamp impressed thereon or affixed thereto has through Mistake or Inadvertence been received or filed or used without having such Stamp impressed thereon or affixed thereto, it shall be lawful for the Lord Chancellor, if he think fit, to order that such Stamp shall be impressed thereon or affixed thereto; and thereupon, when a Stamp shall have been impressed on such Document or affixed thereto, in compliance with any such Order, such Document, and every Proceeding in reference thereto, shall be as valid and effectual as if such Stamp had been impressed thereon or affixed thereto in the first instance.

Officers
guilty of
Fraud or
wilful
Neglect in
relation to
Stamps
liable to be
dismissed.
15 & 16 Vict.
c. 87. s. 13.

190. If any Officer of the Court of Chancery or other Person shall do or commit or connive at any fraudulent Act or Practice in relation to any Stamp to be used under the Provisions of this Act, or to any Fee or Sum of Money to be collected or which ought to be collected by means of any such Stamp, or if any such Officer or Person

Person shall be guilty of any wilful Act, Neglect, or Omission in relation to any such Stamp or Fee as aforesaid, whereby any Fee or Sum of Money which ought to be collected shall be lost or the Payment thereof evaded, every such Officer or Person so offending shall
5 be dismissed from his Office or Employment, if the Lord Chancellor shall think fit so to order.

191. When any of the Fees now payable shall be reduced as aforesaid, the Provisions of all Acts and General Orders relating to the original Fees, save where inconsistent with this Act or the
10 General Orders, shall apply to such reduced Fees.

Acts and General Orders shall apply to reduced Fees.

192. Nothing in this Act contained shall apply to the Stamp Duties or Fees payable in the Bankrupt Court, or to abolish the Stamp Duties or Fees relating to Commissions of Bankruptcy.

Act not to extend to Fees in Bankruptcy.

PART V.

PART V.

15 *Miscellaneous.*

Miscellaneous.

193. Except as herein otherwise provided, all Salaries and Compensation under this Act shall grow due from Day to Day, but shall be payable under an Order of the Lord Chancellor on the
Day of , the Day of , the
20 Day of , and the Day of
in every Year, or on such other Days as the Lord Chancellor shall from Time to Time by any Order direct, and shall be paid to the Parties entitled thereto, or their respective Executors or Administrators, out of the Fund standing in the Books of the
25 Bank of Ireland in the Name of the Accountant General of the Court of Chancery to the Account intituled "The Suitors Fee Fund Account," but subject and without Prejudice to the Payment of all Salaries and other Sums of Money by any former Act or Acts now in force directed or authorized to be paid thereout; and if the said
30 Fund shall prove insufficient for the Payment of the said Salaries, the Balance shall be paid out of such Funds as Parliament shall from Time to Time provide for the Purpose; and if any Person holding any of the said Offices shall die, resign, or be removed from the same, or if any Person entitled to such Allowance shall die, the
35 Executor or Administrator of the Person so dying, or the Person so resigning or being removed, shall be entitled to receive a proportionable Part of his Salary for the Time that such Person shall have lived or executed his Office since the last Payment.

Salaries to be payable quarterly out of Fee Fund.

Dividends of Funds which have not been dealt with for Ten Years may be transferred to the Sutors Fee Fund Account. 16 & 17 Vict. c. 98. s. 1.

194. On the *First Day of October* next after the passing of this Act, and on the same Day in each succeeding Year, an Investigation shall be made into the several Accounts standing in the Name of the said Accountant General to the Credit of any Cause or Matter the Dividends of which shall not have been dealt with for Ten 5 Years or upwards prior to such Time, otherwise than by the Investment of Dividends, and the Lord Chancellor, if and when he shall be of opinion that it is not probable that any Claim will be made for the same, may make Orders for the Investment of the Cash on any such Accounts and for the Appropriation of the future Dividends to 10 accrue due on the Stock for the Time being on any such Accounts, or such Part of such Dividends as he shall be of opinion may safely and properly be so appropriated by carrying the same over to the Credit of the Account in the Books of the Accountant General called the "Sutors Fee Fund Account;" and such Dividends, when 15 so carried over, shall thereupon become Part of the Fund standing to such Account.

Rights of Sutors to Stock or Dividends transferred not to be affected, but to be satisfied out of the Sutors Fee Fund. 16 & 17 Vict. c. 98. s. 2.

195. The Right of any Suitor of the said Court to the Stock the Dividends of which shall be appropriated by any such Order or Orders as aforesaid, or to the Dividends so directed to be appro- 20 priated, shall not be in anywise prejudiced or affected by such Order or Orders, or by such Appropriation in pursuance thereof as aforesaid, but the Claims of such Suitor or Sutors shall be made good and satisfied out of the Fund standing to the Credit of the Accounts called the Sutors Fee Fund Account and the Sutors Unclaimed 25 Dividend Account, or either of them, by virtue of any Order or Orders to be from Time to Time made by the said Court for that Purpose.

Power to Parties ordered to invest in Transfer Stock, to employ any licensed Stock Broker.

196. It shall be lawful for the Party or Parties in any Suit who shall be ordered to invest any Money in the Purchase of the Stocks, 30 Funds, or Annuities transferable at the Bank of Ireland, or to transfer for Sale or otherwise any of the said Stocks, Funds, or Annuities, to employ any One of the licensed Stock Brokers, being a Member of the Stock Exchange in Dublin, to make such Investment and Transfer. 35

Commencement of the Act.

197. This Act shall commence and take effect from and after the *Day of* , provided that such General Orders as aforesaid may be made at any Time after the passing of this Act, but so as that the same shall not be made to take effect before the Time appointed for the Commencement of this 40 Act.

SCHEDULES.

SCHEDULE (A.) REFERRED TO BY THE FOREGOING ACT.

13 & 14 Victoria, c. 89. ss. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13,
14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31,
5 32.

23 & 24 Victoria, c. 38. s. 14.

SCHEDULE (B.) REFERRED TO BY THE FOREGOING ACT.

Form of Endorsement on Bill of Complaint.

Victoria R.

10 To the within-named Defendant, *C.D.*, greeting :

We command you [*“and every of you,” where there is more than
One Defendant*], that within Eight Days after Service hereof on
you, exclusive of the Day of such Service, you cause an Appearance
to be entered for you in Our High Court of Chancery to the within
15 Bill of Complaint of the within-named *A.B.*, and that you observe
what Our said Court shall direct. Witness Ourselves at Dublin,
the Day of in the
Year of Our Reign.

NOTE.—If you fail to comply with the above Directions you will
20 be liable to be arrested and imprisoned.

Appearances are to be entered at the Office of the Clerk of
Appearances and Writs, Four Courts, Dublin.

Form of Replication.

Between *A.B.*, Plaintiff,
25 and
C.D., E.F., G.H., &c., Defendants.

The Plaintiff in this Cause hereby joins Issue with the Defendant
[*all the Defendants who have answered, or who have not been
required to answer and have not answered the Bill*], and will hear
30 the Cause upon Bill and Answer against the Defendant *E.F.* [*all
the Defendants against whom the Cause is to be heard on Bill and
Answer*], and on Order to take the Bill as confessed against the
Defendant *G.H.* [*as the Case may be*].

Form of Order for Administration of Personal Estate.

[Date.]

In the Matter of *A.B.*, late of in the County of
 Banker [*or as the Case may be*], deceased.

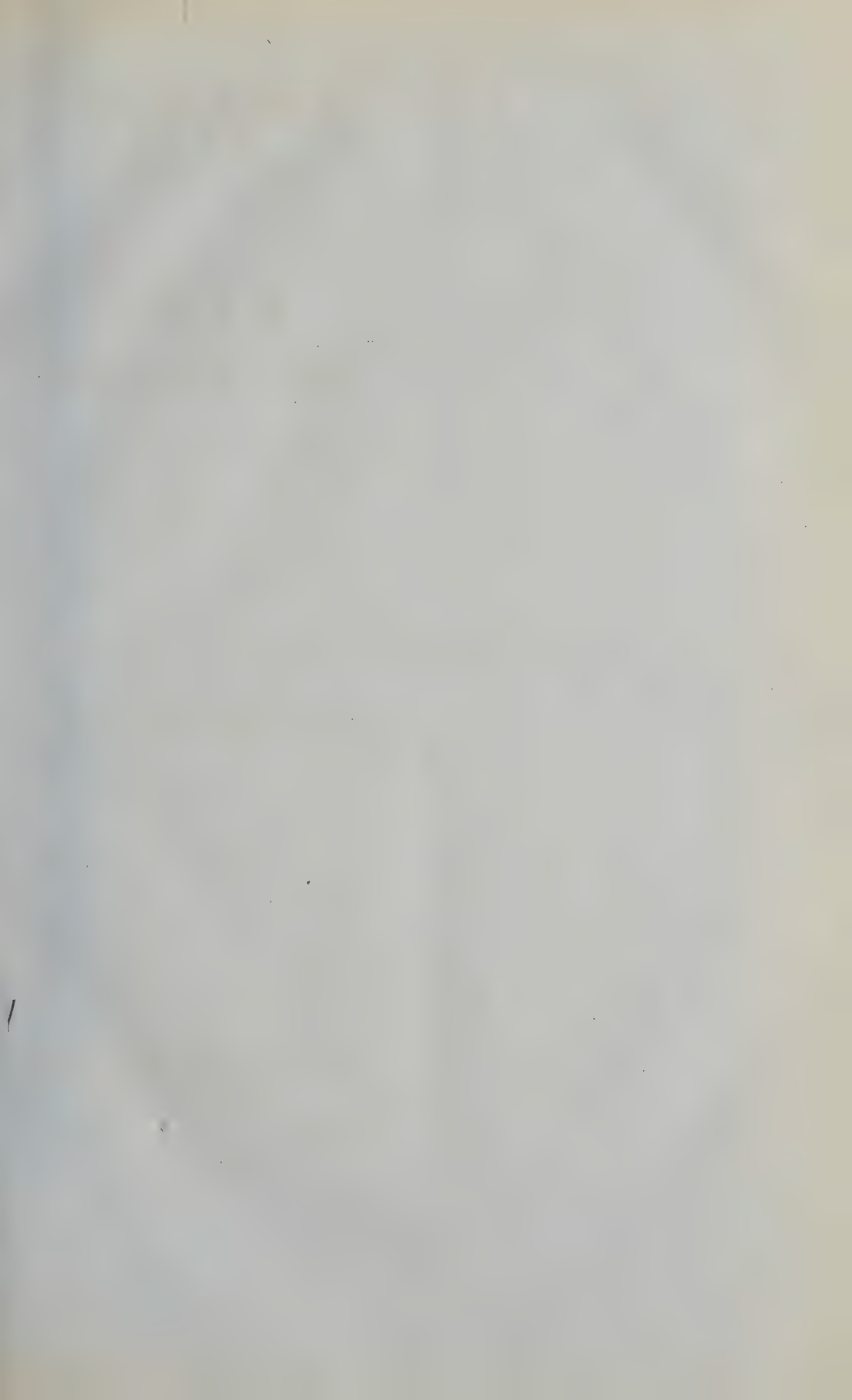
Upon the Application of *C.D.*, the Executor of the Will, or
 Administrator of the Effects of the above-named *C.D.*, and reading
 the Probate of the said Will or Letters of Administration of the
 Effects of the said *A.B.*, granted on the Day of ,
 to the said *C.D.*, and an Affidavit of the said *C.D.* that no Pro-
 ceedings are pending to administer the Estate of the said *A.B.*,
 this Court doth order that an Account be taken of the Debts and
 Liabilities affecting the Personal Estate of the said *A.B.* : And in
 taking such Account Debts are to be distinguished from Liabilities,
 and Liabilities certain from Liabilities contingent; and the Personal
 Estate of the said *A.B.* is to be applied in Payment and Satisfaction
 of such Debts and Liabilities of the said *A.B.* in a due Course of
 Administration; and any of the Parties are to be at liberty to apply
 to the Court as there shall be Occasion.

*Form of Statutory Writ of Injunction to restrain the Transfer of
 Stock or Payment of Dividends.*

Victoria, &c.

To the Governor and Company of the Bank of Ireland.

We command you, that after the Service of this Writ on you
 you do not permit the Sum of [*insert Amount and Description of*
Stock], now standing in your Books in the Name of [*here state*
Person or Persons in whose Name or Names the Stock is standing],
 to be transferred, or the Dividend that is now due or to accrue due
 thereon to be paid, until you shall be served with an Order of Our
 Court of Chancery in Ireland to the contrary, or until this Writ
 shall be discharged by an Order of Our said Court, to be made in
 any Cause or Matter, or until the Lapse of Eight clear Days after a
 written Request by the said [*the Person or Persons in whose Name*
or Names the Stock is standing], his Executors, Administrators, or
 Assigns, or some Person on their or his Behalf, to permit such
 Transfer to be made or Payment received.



Court of Chancery (Ireland).

A

B I L L

To amend the Constitution, Practice, and
Procedure of the Court of Chancery in
Ireland.

*(Prepared and brought in by
Mr. Solicitor General for Ireland and Mr. Attorney
General for Ireland.)*

*Ordered, by The House of Commons, to be Printed,
22 February 1867.*

[Bill 47.]

Under 9 oz.

359

Court of Chancery (Ireland) Bill.

[AS AMENDED IN COMMITTEE.]

ARRANGEMENT OF CLAUSES.

Short Title ; Sect. 1.

Interpretation of Terms ; 2.

Divisions of Act ; 3.

PART I.

Appointment of a Vice-Chancellor, &c.

Appointment of Vice-Chancellor ; 4.

Appointment of Successors of Vice-Chancellor ; 5.

Jurisdiction and Powers of Vice-Chancellor ; 6.

To sit for Lord Chancellor when required ; 7.

Rank and Precedence of the Vice-Chancellor ; 8.

To hold Office during good Behaviour ; 9.

Oath of Vice-Chancellor ; 10.

Appointment of Chief Clerks ; 11.

Qualification of Chief Clerks ; 12.

Appointment of Junior Clerks ; 13.

Officers under Act not to take Fees or Profits, save Salary ; 14.

Solicitor accepting Office to cease to be Solicitor ; 15.

Tenure of Office of Chief Clerk ; 16.

Tenure of Office of Junior Clerk ; 17.

Chief and Junior Clerks to be under Control of Judge ; 18.

Chief and Junior Clerks subject to same Penalties as are imposed by

4 Geo. 4. c. 61. ;—19.

Salaries of Chief and Junior Clerks ; 20.

Salary of Vice-Chancellor ; 21.

Retiring Pension to Vice-Chancellor ; 22.

CLAUSE A.—Service as Judge in the Superior Courts to count ; 23.

Appointment of Court Keeper, Crier, and Tipstaff ; 24.

[Bill 180.]

a

Appoint-

Appointment of a Chief Clerk and Junior Clerks by Lord Chancellor ; 25.

Power to appoint additional Chief or Junior Clerks ; 26.

PART II.

Masters Abolition.

Office of Master, except that of Receiver Master, abolished ; 27.

Vacancies not to be filled ; 28.

Masters may be released ; 29.

Released Masters to be entitled to Pensions ; 30.

Power to Masters to summon Parties, &c., and to settle and wind up Proceedings before them ; 31.

Power to Lord Chancellor, upon Masters Report or Certificate, to make Order for Prosecution or final Disposal of any Suit, &c., and for Payment of Costs, &c. ; 32.

Notwithstanding Suit abated or defective, Master may proceed ; 33.

Master may certify Change of Interest ; 34.

Certificate to have effect of Suggestion and Notice ; 35.

If Master unable to obtain Information, the Lord Chancellor may dispose of Suit ; 36.

Master may certify specially any Decision ; 37.

In case of Neglect, &c. of Parties or Solicitors, the Solicitor for Minors and Lunatics may proceed ; 38.

No further References to be made to Masters, but Masters to finish Business at present pending ; 39.

On Retirement of Masters, their Examiners and Clerks to be entitled to retiring Pensions of the same Amount as Salary ; 40.

Appointment of Office of Second Assistant Registrar. Option to Masters Examiners to accept it according to Seniority ; 41.

CLAUSE B.—Assistant Registrar ; 42.

The Master's Registrars and Assistant Clerks to be Three of the Junior Clerks, and to hold during good Behaviour ; 43.

Power to the Lord Chancellor to make temporary Provision for Offices vacated ; 44.

CLAUSE C.—Assistant Registrar, Chief and Junior Clerks, to get Superannuations ; 45.

On Appointment of Masters or Examiners to Office, &c., the retiring Pension under this Act to be regulated by the Salary, &c. of such Office ; 46.

Appro-

- Appropriation of Masters Offices ; 47.
Rights and Establishments of the present Masters to continue until released ; 48.
Office of Receiver Master preserved ; 49.
Powers of Receiver Master ; 50.
References to Receiver Master ; 51.
-

PART III.

Procedure and Practice.

- Repeal of existing Acts and Portions of Acts ; 52.
Practice of engrossing Bills on Parchment to be discontinued, and printed Bills to be filed instead ; 53.
Writs of Subpœna to be abolished ; 54.
Defendant to be served with a printed Bill in lieu of a Writ of Subpœna ; 55.
The filing and Service of a printed Bill to have the same Effect as the filing and issuing of a Writ of Subpœna ; 56.
Service of printed Bill ; 57.
Written Copies of Bill may be served in certain Cases ; 58.
Plaintiff to deliver printed Copies of Bill at Rate prescribed by General Order ; 59.
Provisions as to filing, &c. Prints of original Bill extended to Amendments. In certain Cases a printed Bill may be wholly or partially amended ; 60.
Bills of Complaint to contain concise Narratives of material Facts, &c., divided into numbered Paragraphs ; but not to contain Interrogatories ; 61.
Next Friend of Infant, &c. in Suit, &c. to sign a written Authority ; 62.
Interrogatories to be filed in the Office of the Deputy Keeper of the Rolls by the Plaintiff within Time prescribed ; 63.
Defendant may answer without Leave within Time fixed by a General Order, but after that Time must have Leave ; 64.
Defendant's Answer may contain not only Answer to Interrogatories, but Statements material to his Case ; 65.
Defendant not to take Objection for Want of Parties in any Case to which Rules herein set forth shall extend ; 66.

Practice of setting down a Cause on Objection for Want of Parties abolished; 67.

Plaintiff may, on Expiration of Time for answering, but before Replication, move for a Decree or Decretal Order. Affidavits may be filed; 68.

Court may refuse such Motion or make Order for further Prosecution, &c.; 69.

Practice of excepting to Bills, Answers, &c., for Impertinence abolished. Proviso as to Costs; 70.

Court may order Defendant to produce Documents, &c., on Oath; 71.

In certain Cases Defendant, after Answer, may file Interrogatories for Examination of Plaintiff. Defendant may exhibit a Cross Bill instead of filing Interrogatories; 72.

Upon Application of Defendant after Answer, Plaintiff may be required to produce Documents on Oath; 73.

Practice of issuing Commissions to take Answers, &c., within the Jurisdiction of the Court abolished; 74.

Masters Extraordinary to cease to be so styled, and to be designated Commissioners; 75.

Power to appoint Solicitors residing within Ten Miles of Dublin as Commissioners to take Oaths; 76.

Clerk of Affidavits and Clerk of Recognizances may administer Oaths and take Affirmations; 77.

Commissioners may be appointed to administer Oaths for the Isle of Man and the Channel Islands; 78.

Commissioners Appointment to bear a Chancery Stamp of £1, in lieu of other Charges; 79.

Nothing to lessen the Power of the Lord Chancellor. References to Masters Extraordinary in Acts to apply to Commissioners; 80.

Answers, Affidavits, &c., in Chancery, how to be sworn and taken in England, Scotland, the Channel Islands, &c.; 81.

Penalty for falsely swearing, &c.; 82.

Penalty for forging Signature or Seal of Judge, &c. empowered to administer Oaths under this Act; 83.

Answers to be filed without Oath of Messenger; 84.

Issue may be joined by filing Replication; 85.

Defendant not having been required to answer, and not answering, may move for Dismissal of Bill for Want of Prosecution; 86.

Practice of Court as to Mode of examining Witnesses abolished. Court may order particular Witnesses to be examined upon Interrogatories; 87.

Judge may, upon Application, order that the Evidence as to certain Facts or Issues shall be taken *vivâ voce* at the Hearing; 88.

Evidence

Evidence as to Facts not included in such Order as in last Section to be taken by Affidavit or Examination before the Examiner ; 89.

Any Party in a Cause may, by Subpœna, require Attendance of any Witness at the Hearing ; 90.

Any Party in a Suit may, by Subpœna, require Attendance of any Witness before an Examiner ; 91.

Examination before the Examiner to be *ex parte* ; 92.

Witnesses by Affidavits or who have been examined *ex parte* before the Examiner may be cross-examined and re-examined ; And the Party filing their Affidavits, or producing them, bound to produce them for this Purpose ; 93.

In Causes in which Issue is joined, Cross-examination to be before the Court at the Hearing ; 94.

Parties may, by written Consent, agree that Examination, Cross-examination, and Re-examination of Witnesses shall take place before the Examiner ; 95.

Power to the Court or Judge in certain Cases to direct Examination and Cross-examination to take place before the Examiner ; 96.

In Cases provided for by the last Two Sections, the Examination in Chief, Cross-examination, and Re-examination to take place before the same Examiner ; 97.

In Suits to perpetuate Testimony, Evidence to be taken according to present Practice ; 98.

Depositions to be taken down in Writing and read over to the Witness, who shall sign the same ; but if he refuse to sign, Examiner may, and state any special Matter he may think fit ; 99.

If Parties refuse to be sworn, or to answer any lawful Questions, the same Course to be pursued as is now adopted. Proviso as to Witness demurring to Questions ; 100.

Re-examination of Witness to follow Cross-examination ; 101.

Original Depositions to be transmitted to the Office of the Clerk of Affidavits ; 102.

Commission for Examination of Witnesses dispensed with, and Examiner empowered to administer Oaths ; 103.

Affidavits to be divided into Paragraphs, numbered ; 104.

Closing Evidence, Cross-examination, and Re-examination ; 105.

Court may require the Production and oral Examination before itself of any Witness, &c., and determine Payment of the Costs ; 106.

Evidence subsequent to Hearing to be taken as the Court shall prescribe by General Orders ; 107.

Power for Court, notwithstanding any Rule, &c. to the contrary, to receive Proof by Affidavit ; 108.

- Deeds and Documents referred to in Pleadings to be produced on Hearings, Motions, and other Proceedings ; 109.
- Court may proceed in any Suit, &c. without Representative of deceased Person, or may appoint one ; 110.
- Power to Persons interested in Questions cognizable in Court of Chancery to state special Cases for the Opinion of the Court ; 111.
- How Lunatic may concur ; 112.
- How married Women may concur ; 113.
- How Infant may concur ; 114.
- How Special Guardian to be appointed for a Lunatic not found such by Commission, and for Infant, may concur ; 115.
- Order to appoint Special Guardian of an Infant may be discharged by Court if made without Notice ; 116.
- How such Special Cases to be intituled ; 117.
- Form of Special Case ; 118.
- Special Case to state how Guardian constituted, and the Concurrence of married Woman ; 119.
- Special Cases to be signed by Counsel, and filed, and Appearances to be entered ; 120.
- After a Special Case filed Parties to be bound by Statements after Defendants have appeared, except married Women, Infants, and Lunatics, who are not to be bound till Leave given by Court to set it down ; 121.
- How Case to be set down for Hearing ; 122.
- When a married Woman, Infant, or Lunatic is a Party, Application to be made to the Court for Leave to set the Case down ; 123.
- Upon Hearing, Court to determine Question and make Declaration. Proviso that Court may refuse to decide ; 124.
- Protection to be afforded to Trustees by Declaration ; 125.
- The Court may suspend the acting upon Declaration ; 126.
- Special Case to be a *Lis pendens*, and may be registered ; 127.
- Mode of identifying Documents, and Court may order Production ; 128.
- Power to Master of the Rolls and Vice-Chancellors to sit at Chambers for the Despatch of Business, &c. ; 129.
- Power to Lord Chancellor to provide Chambers for Master of the Rolls and Vice-Chancellor ; 130.
- Judges to have same Power and Jurisdiction as in open Court ; 131.
- Orders made at Chambers to be drawn up by Judges Clerks ; 132.
- Orders made at Chambers to have same Force as Orders of Court, &c. ; 133.

Business to be disposed of in Chambers by the Judges ; 134.

Judges may adjourn from open Court to Chambers, and vice versâ, the Consideration of any Matter ; 135.

Mode of proceeding before Judges at Chambers to be by Summons ; 136.

Power to the Judges to direct what Matters, &c. shall be heard and investigated by themselves and what by their Chief Clerks. Right to Suitor to bring any Point before the Judge ; 137.

Power to Chief Clerks to issue Advertisements and Summonses, to administer Oaths, &c., as the Judge shall direct ; 138.

Parties, &c. not attending liable to Process of Contempt, and to Penalties for false swearing, &c. ; 139.

Result of Proceedings before Chief Clerk to be embodied in Form of short Certificate, &c. ; 140.

No Exceptions to lie to Certificate, &c. Parties at liberty to take Opinion of Judge upon any particular Point ; 141.

Certificate, &c. signed and adopted by Judge binding on all Parties, unless discharged or varied ; 142.

All Powers possessed by Masters to be exercised by Judges ; 143.

Power to Judges to exercise the Powers given by Sections 31. to 38. inclusive of this Act, and to dispose of any Cause, &c. in open Court ; 144.

Court or Judge, on Application of Executors or Administrators, may, by Order of Course, direct an Account of Debts and Liabilities to be taken ; 145.

Certificate of Chief Clerk may be objected to by Application to the Court or Judge, of which Notice shall be given. Proceeding of the Court on such Motion ; 146.

If Debts or certain Liabilities allowed, and not paid or provided for, Order may be made for Payment of Accounts ; 147.

Court or Judge, on Application of Executors or Administrators, may direct Appropriation of Money to answer contingent Liability ; 148.

Court may restrain Proceedings against Executors or Administrators ; 149.

Protection to be afforded to Executors and Administrators ; 150.

Creditor, &c. may summon Executor, &c., to show Cause why an Order for Administration of Personal Estate should not be granted. Power to Judge to order Administration of such Estate ; 151.

Copy of Summons to be filed in the Office of the Deputy Keeper of the Rolls ; 152.

Creditor, &c. may obtain an Order for Administration of Real Estate; 153.

Suit not to be dismissed for Misjoinder of Plaintiffs, but Court may modify its Decree according to special Circumstances; 154.

No Suit to be objected to because only Declaratory Order sought; 155.

Court may decide between some of the Parties without making others interested Parties to the Suit. Proviso; 156.

In case of Abatement, &c. of Suit, an Order may be made which shall have the same Effect as a Bill of Revivor; 157.

New Facts, &c. after Commencement of Suit to be introduced as Amendments to Bill, &c.; 158.

Where Account required to be taken, Court may give special Directions as to the Mode of taking same; 159.

Where Real or Personal Property is the Subject of Proceedings, Court may allow to Parties Part or the whole of the annual Income; 160.

Answer of Defendant on Motion for Injunction or Receiver, &c. to be regarded as an Affidavit; 161.

Power to obtain the Assistance of Accountants, Merchants, &c.; 162.

Taxing Master to regulate Fees to Accountants, &c., subject to Appeal; 163.

In case Directions as to Practice, &c. not followed, Court may make Order and award Costs; 164.

Costs may be taxed notwithstanding the Death of Person to whom they are awarded; 165.

Costs may be taxed notwithstanding Death of Person by whom they are payable; 166.

Summons to tax to be served in ordinary Way; 167.

Taxing Master may proceed *ex parte*; 168.

Taxed Costs may be recovered; 169.

Court of Chancery may summarily restrain the Bank of Ireland, &c. from permitting Transfer of Stock, &c.; 170.

Persons claiming Government Stock standing in the Name of another may sue out Writ of Injunction to restrain the Transfer; 171.

After Service of Writ Bank not to permit Transfers or Payment of Dividends; 172.

Application to Court to discharge such Writs; 173.

Persons interested in Stock may, notwithstanding such Writ, request Transfer to be made, whereupon Bank to notify such Request to Parties by whom Writs sued out; 174.

Pending

Pending Suits to be prosecuted according to present Practice ; 175.

Lord Chancellor and Judges to make General Rules and Orders for carrying Purposes of this Act into effect ; 176.

Such General Rules and Orders to be laid before Parliament ; 177.

PART IV.

Fees and Stamps.

Power to the Court, with the Assent of the Lords Commissioners of Her Majesty's Treasury, to allow the Chancery Fund Duties payable under 4 Geo. 4. c. 78. ;—178.

Fees now payable in respect of Proceedings in Court, and accounted for to the Treasury, to be added to the Chancery Fund Duties ; 179.

Fees which are now accounted for to Suitors Fee Fund to be henceforth received by Stamps ; 180.

No Officer hereafter to receive Fees for his own Use, but all Officers to be paid by Salary ; 181.

Officers to continue to receive Fees until Lord Chancellor shall otherwise direct, and pay them into the Suitors Fee Fund ; 182.

Power to vary Fees ; 183.

The Commissioners of Inland Revenue to carry General Orders relating to Fees and Stamps into effect ; 184.

Commissioners of Inland Revenue may make Regulations as to Allowance for spoiled Stamps ; 185.

Commissioners to have Powers in 5 & 6 Vict. c. 82. ;—186.

No Document to be received or used unless stamped ; 187.

Officers guilty of Fraud or wilful Neglect in relation to Stamps liable to be dismissed ; 188.

Acts and General Orders shall apply to reduced Fees ; 189.

Act not to extend to Fees in Bankruptcy ; 190.

PART V.

Miscellaneous.

Salaries to be payable out of Monies to be provided by Parliament ; 191.

Dividends of Funds which have not been dealt with for Ten Years may be transferred to the Suitors Fee Fund Account ; 192.

Rights of Suitors to Stock or Dividends transferred not to be affected, but to be satisfied out of the Suitors Fee Fund ; 193.

Power to Parties ordered to invest in Transfer Stock to employ any licensed Stock Broker ; 194.

Commencement of the Act ; 195.

SCHEDULES.



A

B I L L

[AS AMENDED IN COMMITTEE]

TO

Amend the Constitution, Practice, and Procedure of the Court of Chancery in Ireland.

WHEREAS it is expedient to alter the Constitution and Preamble.
amend the Practice and Course of Proceeding of the
High Court of Chancery in Ireland, with a view of esta-
blishing Uniformity of Practice and Procedure in the Courts of
5 Chancery in England and Ireland, and to make Provision for the
Receipt of Fees of the Court of Chancery in Ireland by Stamps, and
to give increased Power over Funds in that Court, the Dividends of
which have not been dealt with for a certain Period: Be it therefore
enacted by the Queen's most Excellent Majesty, by and with the
10 Advice and Consent of the Lords Spiritual and Temporal, and
Commons, in this present Parliament assembled, and by the Autho-
rity of the same, as follows:

1. This Act may be cited for all Purposes as "The Chancery Short Title.
(Ireland) Act, 1867."

15 2. In the Construction and for the Purposes of this Act the Interpretation
following Terms shall have the respective Meanings herein-after
[Bill 180.] A assigned Terms.

assigned to them (if not inconsistent with the Context or Subject Matter) ; that is to say,

" Her Majesty:"	The Expression " Her Majesty " shall mean the Sovereign for the Time being :
" Chancery Court:"	The Expressions " Court of Chancery," " Chancery," and " Court " shall mean the Court of Chancery in Ireland :
" Lord Chancellor:"	The Expression " Lord Chancellor " shall mean and include the Lord Chancellor, Lord Keeper, and Lords Commissioners for the Custody of the Great Seal of Ireland :
" Master of the Rolls:"	The Words " Master of the Rolls " shall mean the Master of the Rolls in Ireland :
" Master:"	The Word " Master " shall mean Master in Ordinary of the Court of Chancery in Ireland :
" Master's Examiner:"	The Words " Master's Examiner " shall mean Clerk and Examiner to a Master in Ordinary of the Court of Chancery in Ireland :
" Bill of Complaint:"	The Words " Bill of Complaint and Bill " shall mean also and include Information :
" Plaintiff:"	The Word " Plaintiff " shall include Informant :
" Suit:"	The Word " Suit " shall include Cause, Matter, or other Proceeding :
" Affidavit:"	The Word " Affidavit " shall include Declaration, Affirmation, and Attestation upon Honour ; and the Word " swear " shall include declare, affirm, and attest upon Honour :
" Lunatic:"	The Word " Lunatic " shall include Idiots and Persons of unsound Mind, and whether found such by Inquisition or not :
" General Order:"	The Words " General Order," " General Order of the Court," shall mean a General Order made in the Manner herein-after provided :
" Agent " and " Town Agent."	The Words " Agent " and " Town Agent " shall mean an Agent or Town Agent being a practising Solicitor.

Divisions of Act.

3. This Act shall consist of Five Parts, relating to:—

Part I. The Appointment of a Vice-Chancellor :

Part II. The Abolition of the Office of Master in Ordinary of the Court of Chancery :

Part III. Procedure and Practice :

Part IV. Stamps and Fees :

Part V. Miscellaneous Matters.

35

PART I.

Appointment of a Vice-Chancellor, &c.

PART I.

*Appointment
of Vice-
Chancellor,
&c.*

Appoint-
ment of Vice-
Chancellor.
53 G. 3. c. 24.

4. It shall be lawful for Her Majesty to nominate and appoint,
by Letters Patent under the Great Seal of Ireland, a fit Person, being
5 or having been a Barrister-at-Law of Fifteen Years standing at the
least, to be a Judge Assistant to the Lord Chancellor of Ireland in
the Discharge of the Judicial Functions of his Office, such additional
Judge to be called the Vice-Chancellor of Ireland: Provided that
no Vice-Chancellor appointed under this Act shall during his
10 Tenure of Office be capable of sitting in the House of Commons.

5. From Time to Time, when and as any Vacancy shall occur in
the Office of the Vice-Chancellor who shall be appointed under
this Act, by the Death, Resignation, or Removal from Office of
such Vice-Chancellor or his Successor for the Time being, it shall
15 be lawful for Her Majesty, by Letters Patent under the Great Seal
of Ireland, to appoint a fit Person, being or having been a Barrister-
at-Law of Fifteen Years standing at the least, to supply such
Vacancy.

Appoint-
ment of Suc-
cessors of
Vice-Chan-
cellor.
5 Vict. c. 5.
s. 20.

6. Every such Vice-Chancellor shall have full Power to hear
20 and determine all Suits which are or shall be at any Time depending
in the Court of Chancery in Ireland, as a Court of Equity, or
incident to any ministerial Office of the said Court, or which shall
have been or shall be submitted to the Jurisdiction of the said
Court or of the Lord Chancellor, by the special Authority of any
25 Act of Parliament, as the Court shall from Time to Time by any
General Order direct; and all Decrees, Orders, and Acts of such
Vice-Chancellor so made or done shall be deemed or taken to be
respectively, as the Nature of the Case shall require, Decrees,
Orders, and Acts of the said Court of Chancery, or of such incident
30 Jurisdiction as aforesaid, or under such special Authority as afore-
said, and shall have Force and Validity and be executed accord-
ingly, subject nevertheless to be afterwards reversed or altered
in like Manner as if they were Decrees, Orders, or Acts of the
Lord Chancellor or the Master of the Rolls; and no such Decree
35 or Order shall be enrolled until the same shall be signed by the
Lord Chancellor.

Jurisdiction
and Powers
of Vice-
Chancellor.
53 G. 3. c. 24.
s. 2.
5 Vict. c. 5.
s. 22.

7. Every such Vice-Chancellor shall sit for the Lord Chancellor
whenever he shall require him so to do.

To sit for
Lord Chan-
cellor when
required.
5 Vict. c. 5.
s. 23.

8. The Vice-Chancellor shall have Rank and Precedence next
40 after the Lord Justice of the Court of Appeal in Chancery in
Ireland, provided the latter shall not have held the Office of Lord

Rank and
Precedence
of the Vice-
Chancellor.

Chancellor of Ireland; and in case the Lord Justice of the Court of Appeal for the Time being shall have held the Office of Lord Chancellor of Ireland, then the Vice-Chancellor shall have Rank and Precedence next after the Chief Baron of Her Majesty's Court of Exchequer in Ireland.

5

To hold
Office during
good Be-
haviour.
5 Vict. c. 5.
s. 27.

9. Every Vice-Chancellor shall hold his Office during his good Behaviour: Provided always, that it shall be lawful for Her Majesty to remove any such Vice-Chancellor from his Office upon an Address of both Houses of Parliament.

Oath of
Vice-Chan-
cellor.
5 Vict. c. 5.
s. 28.

10. Every Vice-Chancellor shall, previous to his executing any 10 of the Duties of his Office, take the following Oath, which the Lord Chancellor or the Master of the Rolls for the Time being is hereby respectively authorized and required to administer:

‘ I do solemnly and sincerely promise and swear,
‘ That I will duly and faithfully, and to the best of my Skill and 15
‘ Power, execute the Office of Vice-Chancellor of Ireland.
‘ So help me GOD.’

Appoint-
ment of
Chief Clerks.
15 & 16 Vict.
c. 80. s. 16.

11. It shall be lawful for the Master of the Rolls and the Vice-Chancellor for the Time being respectively, with the Approbation of the Lord Chancellor, to appoint One Chief Clerk each, to be 20 respectively attached to the Court of each such Judge and his Successors in Office, for the Purpose of assisting the Judge in Business not of a Judicial Character, and on any Vacancy in such Office of Chief Clerk to supply such Vacancy.

Qualifica-
tion of Chief
Clerks.
15 & 16 Vict.
c. 80. s. 17.

12. No Person shall be appointed Chief Clerk to the Master of 25 the Rolls or to the Vice-Chancellor unless he shall have been admitted on the Roll of Solicitors or Attorneys in One of the Superior Courts at Dublin, and shall have practised as Solicitor or Attorney for the Period of Ten Years at least immediately pre- ceding his Appointment, or unless he shall have held the Office of 30 Master's Examiner in the Court of Chancery in Ireland, or shall have held some other Office or Offices in the Court of Chancery for a Period of Seven Years.

Appoint-
ment of
Junior
Clerks.
15 & 16 Vict.
c. 80. s. 18.

13. It shall be lawful for the Master of the Rolls and the Vice-Chancellor respectively, subject to the Provision herein-after con- 35 tained as to the Appointment of the First Junior Clerks, to appoint Two Junior Clerks to the Chief Clerk of his Court, and on any Vacancy to supply such Vacancy.

Officers
under Act
not to take

14. If any Person who shall accept any Office under this Act shall engage in any other Employment whatever whilst he holds 40 such

such Office, or shall receive any Sum of Money or Benefit, other than his Salary, and what may be allowed or directed to be taken by him under any Act of Parliament or Order of the said Court, for any Act done or pretended to be done, or any Attendance given or pretended to be given, either with or without the Consent or Direction or pretended Consent or Direction of any Judge of the Court, in relation to or arising out of any Proceeding in his Office or in any Office of or connected with the Court of Chancery ; or if such Person, having been a Solicitor or Attorney, shall directly or indirectly receive or secure to himself any continuing Benefit from any Business or Firm in which he may have been engaged previously to his Appointment to such Office, the Person so offending may be removed from his Office by Order of the Lord Chancellor, and if so removed shall be rendered incapable of afterwards holding any Office, Situation, or Employment in the said Court.

15. Every Solicitor or Attorney who shall be appointed to and shall accept Office under this Act shall cease to be an Attorney or Solicitor, and shall forthwith procure himself to be struck off the Roll of Solicitors of the Court of Chancery, and off the Roll of any of Her Majesty's Courts of Record at Dublin on which his Name may be.

16. Every Chief Clerk shall, subject to the Power of Removal herein-after contained, hold his Office on the same Tenure as an Officer serving in an established Capacity in the permanent Civil Service of the State ; and it shall be lawful for the Lord Chancellor, with the Concurrence of the Judge to whose Court any Chief Clerk shall be attached, by an Order to remove any such Chief Clerk- without stating any Cause for such Removal.

17. Every Junior Clerk shall, except in the Cases herein-after specially provided, hold his Office at the Pleasure of the Judge to whose Court he shall be attached.

18. Subject to the Regulations which shall be prescribed by the General Orders of the Court, the Chief Clerks and Junior Clerks shall be under the Control of the Judge to whose Court they shall respectively be attached, and shall attend at such Places, during such Times, and for such Hours in each Day, and perform such Duties, as such Judge shall from Time to Time direct.

19. Every Chief Clerk and every Junior Clerk shall be subject and liable to such and the same Obligations, Prohibitions, and Penalties, as Chief and Junior Clerks subject to the

same Penalties as are imposed by 4 G. 4. c. 61.

Penalties, so far as the same are not inconsistent with the Provisions of this Act, as are by an Act passed in the Session holden in the Fourth Year of the Reign of King George the Fourth enacted with respect to Persons holding any of the Offices in the Court of Chancery therein specified, in the same Manner as if the Enactments therein contained relating to such Officers of the said Court respectively were here repeated in relation to such Chief and Junior Clerk.

Salaries of Chief and Junior Clerks. 15 & 16 Vict. c. 80. s. 44.

20. There shall be paid to every such Chief Clerk, in the first instance, the net yearly Salary of Eight hundred Pounds, to be increased every Year of Service by the net annual Sum of Twenty-five Pounds until the yearly Salary of such Chief Clerk shall amount to the net yearly Salary of One thousand Pounds; and to every such Junior Clerk, in the first instance, the net yearly Salary of Two hundred and fifty Pounds, to be increased in like Manner by the net annual Sum of Ten Pounds until the yearly Salary of each Junior Clerk shall amount to the net yearly Salary of Three hundred and fifty Pounds; and the said Salaries respectively shall be free from all Taxes and Deductions, except in respect of Income Tax, and shall be paid out of the Funds and in the Manner herein-after provided; but no such Increase of Salary shall be made without a Certificate from the Judge to whose Court such Chief or Junior Clerk shall be attached that he has conducted himself in his Office to the entire Satisfaction of such Judge.

Salary of Vice-Chancellor.

21. There shall be paid to the Vice-Chancellor for the Time being the net yearly Salary of Four thousand Pounds, which Salary shall issue and be payable out of and charged upon the Consolidated Fund of the United Kingdom of Great Britain and Ireland, and shall be free from all Taxes and Deductions, except in respect of Income Tax, and shall be paid quarterly on the First Day of January, the First Day of April, the First Day of July, and the First Day of October in every Year, by equal Portions, and the first of such Payments, or a proportionate Part thereof, to be computed from the Time of the Appointment of such Vice-Chancellor, shall be made on such of the said Days of Payment as shall first happen after the Date of such Appointment; and upon the Resignation, Death, or Removal from Office of any such Vice-Chancellor, such Vice-Chancellor, his Executors or Administrators, shall be paid such proportionate Part of his Salary as shall have accrued from the Time of the Commencement of such Salary, or from the last quarterly Day of Payment thereof, to the Time of such Resignation, Death, or Removal from Office.

22. Her

22. Her Majesty, by Letters Patent under the Great Seal of the United Kingdom, may grant unto any Person executing the Office of Vice-Chancellor, in pursuance of this Act, an Annuity not exceeding Two thousand six hundred and sixty-six Pounds Thirteen Shillings and Fourpence, to commence immediately after the Period when the Person to whom such Annuity shall be granted shall resign the said Office of Vice-Chancellor, and to continue from thenceforth during the natural Life of the Person to whom the same shall be granted; and such Annuity shall be issued and payable out of and charged upon the Consolidated Fund of the United Kingdom of Great Britain and Ireland; and such Annuity shall be paid quarterly, free from all Taxes and Deductions whatsoever, except Income Tax, by equal Portions, on the same quarterly Days as the Salary of such Vice-Chancellor was payable; and the first quarterly Payment, or a proportionate Part thereof, to be computed from the Time of the Resignation of the said Office, shall be made on such of the same Days as shall happen next after the Resignation of the said Office; and the Executors and Administrators of the Person to whom the same Annuity shall be granted as aforesaid shall be paid such proportionate Part of the said Annuity as shall accrue from the Commencement or the last quarterly Payment thereof, as the Case may be, to the Day of his Death; provided that it shall be lawful for Her Majesty, in and by such Letters Patent, to limit the Duration of Payment of such Annuity or any Part thereof to such Periods of Time during the natural Life of such Person in which he shall not exercise any Office of Profit under Her Majesty, so that such Annuity, together with the Salary and Profits of such other Office, shall not exceed in the whole the said Sum of Two thousand six hundred and sixty-six Pounds Thirteen Shillings and Fourpence; provided also, that no Annuity granted to any Person having executed the Office of Vice-Chancellor under this Act shall be valid unless such Person shall have continued in the said Office, or in the said Office and the Office of a Judge in One or more of Her Majesty's Superior Courts, or Judge of Her Majesty's Court of Probate in Ireland, or Judge of the Landed Estates Court, or of Master in Ordinary of the said Court of Chancery, for the Period of Fifteen Years, or shall be afflicted with some permanent Infirmary disabling him from the due Execution of his Office, which shall be distinctly recited in the said Grant.

Retiring
Pension to
Vice-Chan-
cellor.

5 Vict. c. 5.
s. 36.

23. In calculating the Service of a Vice-Chancellor under this Act, the Number of Years a Vice-Chancellor shall have acted as One of the Judges of the Superior Courts of Law or Equity in Ireland shall in all Cases be included, in case the Party holding the Office of Vice-Chancellor shall have acted as such.

CLAUSE A.
Service as
Judge in the
Superior
Courts to
count.

[180.]

A 4

24. It

Appoint-
ment of
Court
Keeper,
Crier, and
Tipstaff.

24. It shall be lawful for the Vice-Chancellor from Time to Time to appoint a Court Keeper, Crier, and Tipstaff, to be attached to his Court, and the Salaries of the Persons so to be appointed shall be of such respective Amounts as the Lord Chancellor and the Commissioners of Her Majesty's Treasury shall in each Case determine ; and such Salaries shall be paid to each Person so to be appointed out of the Funds herein-after mentioned.

Appoint-
ment of a
Chief Clerk
and Junior
Clerks by
Lord Chan-
cellor.

25. If it shall appear to the Lord Chancellor that the Business of his Court shall render it expedient that a Chief Clerk and Junior Clerks should be appointed, to be attached to the Lord Chancellor and his Successors in Office, for the Purpose of assisting the Lord Chancellor in Business not of a Judicial Character and the Suits belonging to his Court, and in any Matters belonging to or reserved for his Jurisdiction, it shall be lawful for the Lord Chancellor, with the Assent of the Commissioners of Her Majesty's Treasury, to appoint One Chief Clerk, having such Qualification as is herein-before prescribed in reference to the Chief Clerks of the Master of the Rolls and Vice-Chancellor respectively, and Two Junior Clerks, and on any Vacancy in such Offices to supply such Vacancy ; and every Chief Clerk and Junior Clerk so to be appointed shall hold his Office by the like Tenure, and shall have the like Powers, and shall be entitled to the like Salaries, Allowances, and Benefits, and shall be subject to the like Obligations, Prohibitions, and Penalties, as a Chief Clerk or Junior Clerk attached to the Master of the Rolls or the Vice-Chancellor, but shall be under the Control of the Lord Chancellor, and shall be removable by an Order of the Lord Chancellor and the Lord Justice of the Court of Appeal, without stating any Cause for such Removal.

Power to
appoint
additional
Chief or
Junior
Clerks.

26. In case it shall appear to the Lord Chancellor that the State of Business in the Court renders it expedient to appoint an additional Chief Clerk or additional Junior Clerks to the Master of the Rolls and the Vice-Chancellor, or to either of them, it shall be lawful for the Lord Chancellor, with the Consent of the Master of the Rolls and the Vice-Chancellor, or One of them, and subject to the Approbation of the Commissioners of Her Majesty's Treasury, to direct that there shall be attached to the Master of the Rolls and the Vice-Chancellor, or to either of them, as the Case may be, such additional Chief Clerk or additional Junior Clerks as aforesaid ; and thereupon it shall be lawful for the Judge to whose Court such Chief Clerk or Junior Clerk shall be attached to appoint in manner aforesaid such additional Chief Clerk or Junior Clerk, as the Case may be, and on any Vacancy in such Office of additional

additional Chief Clerk or Junior Clerks to supply such Vacancy; and every Chief Clerk or Junior Clerk so appointed shall possess the like Qualifications, and shall hold his Office by the like Tenure, and shall have the like Powers, and shall be entitled to the like
 5 Salaries, Allowances, and Benefits, and subject to the like Obligations, Prohibitions, and Penalties, as a Chief Clerk or Junior Clerk attached to the Master of the Rolls or the Vice-Chancellor.

PART II.

Masters Abolition.

PART II.

Masters Abolition.

10 27. The Office of Master in Ordinary of the said Court of Chancery, except the Office of Receiver Master of the said Court, which shall be maintained for the Performance of certain special Duties, as herein-after provided, shall be and the same is hereby abolished, but reserving and subject to the Execution by the
 15 present Masters in Ordinary of the said Court whose Offices are hereby abolished of the Duties herein-after provided for; and until they are released under this Act they shall for the Performance of such Duties continue to have all the Powers conferred upon them by any Act of Parliament, or otherwise vested in them.

Office of
 Master, ex-
 cept that of
 Receiver
 Master,
 abolished.
 15 & 16 Vict.
 c. 80. s. 1.

20 28. No Vacancy which has already occurred or may hereafter occur in the Office of Master in Ordinary of the said Court, other than that of Receiver Master, shall be filled up; and no Vacancy which has already occurred or may hereafter occur in the Office of Examiner, Assistant Clerk, or Registrar to such Master,
 25 other than the Examiner or Assistant Clerk of the Receiver Master, shall be filled up, save in the temporary Manner herein-after provided; and no Vacancy in the Office of Examiner to the Receiver Master shall be filled up otherwise than by the Appointment of One of the Examiners of the Masters whose Office is
 30 abolished by this Act, save such of them, if any, as shall be appointed Assistant Registrar as herein-after provided, so long as any such Examiner, save as aforesaid, shall continue to be an Officer of the Court; and no Vacancy in the Office of Assistant Clerk to the Receiver Master shall be filled up otherwise than by the Appoint-
 35 ment of One of the Assistant Clerks of the Masters whose Office is abolished by this Act, so long as any such Assistant Clerk shall continue to be an Officer of the Court.

Vacancies
 not to be
 filled.
 15 & 16 Vict.
 c. 80. s. 2.

29. Whenever in the Judgment of the Lord Chancellor from the State of Business in the said Court any Master whose Office is

[180.]

B

hereby

Masters may
 be released.
 15 & 16 Vict.
 c. 80. s. 3.

hereby abolished can be spared, it shall be lawful for the Lord Chancellor to release such Master from his Duties as such, at such Time or Times as to him shall seem meet.

Released
Masters to
be entitled
to Pensions.
15 & 16 Vict.
c. 80. ss. 5.
and 6.

30. Each One of the Masters so to be released shall nevertheless continue entitled to receive during his Life, by way of retiring Pension, the full Amount of his Salary as such Master; and the Salaries or retiring Pensions payable to the Masters so to be released shall be payable out of the same Funds, on the Days, and in the same Manner in all respects as their present Salaries.

Power to
Masters to
summon Parties, &c., and
to settle and
wind up
Proceedings
before them.
15 & 16 Vict.
c. 80. s. 7.

31. In order as expeditiously as may be to wind up all the Suits which may from Time to Time be depending before or have been referred to any of the Masters whose Office is hereby abolished, it shall be lawful for every such Master, at any Time after the passing of this Act, to summon as he shall deem fit all or any of the Parties to any Suit so depending, or referred, or their Solicitors, and thereupon to proceed with such Suit, and give such Directions and make such Order as he may think necessary for the Purpose of settling and winding-up the same; but any such Order shall be subject to be discharged or varied by the Lord Chancellor upon Application made for that Purpose; and the Master shall be at liberty to proceed for the Purposes aforesaid in the Absence of any of the Parties or Solicitors neglecting or refusing to attend the Summons.

Power to
Lord Chan-
cellor, upon
Master's
Report or
Certificate,
to make
Order for
Prosecution
or final Dis-
posal of any
Suit, &c.,
and for Pay-
ment of
Costs, &c.
15 & 16 Vict.
c. 80. s. 8.

32. In case such Master shall be unable, by reason of the Conduct of Parties or otherwise, to finally dispose of any Suit, he shall be at liberty to dispose of any Part thereof within his Power, and to report or certify on the whole of the Case; and upon such Report or Certificate the Lord Chancellor shall make such Order as he shall think proper on all or any of the Parties, for the further Prosecution of the Suit, or for the final Disposal thereof, and for the Payment of the Costs thereof, including any of the Costs which may have been incurred by reason of the Conduct of the Parties.

Notwith-
standing
Suit abated
or defective,
Master may
proceed.
17 & 18 Vict.
c. 100. s. 1.

33. Upon a Suit in which any Proceeding may from Time to Time be depending before any such Master becoming abated by Death, Marriage, or otherwise, or becoming defective by reason of some Change or Transmission of Interest or Liability, it shall be lawful for such Master, notwithstanding that the Suit has become abated or defective, to summon, as he shall deem fit, all or any of the Parties to the Suit or Proceeding, or their or any of their Solicitors, and to require and obtain from them or any of them such Information as may to him seem necessary or proper respecting the Abatement of the Suit, or respecting the same having become defective,

defective, and the Change or Transmission of Interest or Liability, and respecting the Person or Persons by and against whom the Suit and Proceedings ought to be revived, or the Decree or Order carried on and prosecuted, for which Purpose such Master shall be at liberty
5 to proceed in the Absence of any of the Parties or Solicitors neglecting or refusing to attend to his Summons.

34. In case such Master shall by the Means aforesaid or otherwise obtain sufficient Information for his Guidance in this Behalf, he shall be at liberty to certify the Abatement of the Suit, or that
10 the same has become defective, and the Change or Transmission of Interest or Liability.

Master may certify Change of Interest.
17 & 18 Vict. c. 100. s. 2.

35. The Master's Certificate shall be filed, and Notice thereof served by and upon such Person as the Master may direct; and the Person so served shall from the Time of such Service being made
15 become a Party to the Suit, and be bound in all respects in the same Manner as if an Order of Revivor or a Supplemental Decree had been made upon a Bill or Cause Petition duly filed for that Purpose.

Certificate to have effect of Suggestion and Notice.
17 & 18 Vict. c. 100. s. 3.

36. In case such Master shall not be able to obtain sufficient
20 Information for his Guidance in certifying as aforesaid, he shall be at liberty to certify the Abatement of the Suit, or that the same has become defective, and the Change or Transmission of Interest or Liability, and that by reason thereof he is unable to dispose of the Proceeding pending before him in the Suit; upon which
25 Certificate the Lord Chancellor shall make such Order as he shall think proper on all or any of the Parties, for the further Prosecution of the Suit, or for the final Disposal thereof, and for the Payment of the Costs thereof, including any of the Costs which may have been incurred by reason of the Conduct of the Parties.

If Master unable to obtain Information, the Lord Chancellor may dispose of Suit.
17 & 18 Vict. c. 100. s. 4.

37. In any Suit which may from Time to Time be pending before or have been referred to any Master, he shall be at liberty to certify specially any Decision at which he may arrive, or any other Matter relating thereto, in order to obtain a Decision or Direction by or from the Lord Chancellor for his Guidance in the further
35 Proceedings, or to enable any Party to obtain the Opinion of the Court with reference thereto.

Master may certify specially any Decision.
17 & 18 Vict. c. 100. s. 7.

38. In the event of the Parties or their Solicitors refusing or neglecting, within a Time to be fixed by the Master, to file or to bring before the Lord Chancellor any such Certificate or Report as afore-
40 said, or to serve any Order when drawn up as aforesaid, then, by the

In case of Neglect, &c. of Parties or Solicitors, the Solicitor for Minors

and Lunatics
may proceed.
15 & 16 Vict.
c. 80. s. 9.
17 & 18 Vict.
c. 100. s. 5.

Direction of the Master, the Certificate or Report may be filed or brought before the Lord Chancellor, or the Order may be served by the Solicitor for the Time being in the Matter of Minors and Lunatics; and the Lord Chancellor is hereby empowered to order Payment of the Costs and Expenses of the Solicitor in the Matter 5 of Minors and Lunatics out of such of the Funds in the Suit or by such Parties as to him shall seem just; and in case Payment thereof cannot be obtained by any of the Means aforesaid, the same, by the Direction of the Lord Chancellor, may be paid out of the Suitors Fee Fund. 10

No further
References
to be made
to Masters,
but Masters
to finish
Business at
present
pending.

39. From and after the First Day of Michaelmas Term One thousand eight hundred and sixty-seven no Reference shall be made to any of the Masters in Ordinary of the said Court, except in Suits pending at the passing of this Act, or in Suits in which, from some previous Reference having been made in some other Suit 15 connected therewith, the Court may think it expedient to make such Reference, and, except in the Case of the Receiver Master, such References as are herein-after directed: Provided always, that the said Receiver Master and the other Masters in Ordinary of the said Court, until they shall have been removed, by Resig- 20 nation, Death, or otherwise, or released from their Duties under this Act, shall prosecute all the Business which on the First Day of Michaelmas Term One thousand eight hundred and sixty-seven shall be pending before them, and also all the References which shall be made under Decrees, Decretal or other Orders of the Court 25 in Suits commenced before the last-mentioned Day, or which shall be made in relation to such excepted Matters as aforesaid, and the same, if necessary, shall from Time to Time be distributed amongst or prosecuted by the Masters, or such of them as shall then remain, and the said Receiver Master, and his Successors in Office, in such 30 Manner as the Lord Chancellor shall direct; and the Powers and Authorities now vested in them are hereby reserved to them for the Purpose of executing and performing all the Duties, Matters, and Things which may be still referred to them, or which they may be lawfully called upon to perform. 35

On Retirement
of
Masters,
their Exa-
miners and
Clerks to be
entitled to
retiring
Pensions
of the same
Amount as
Salary.

40. Every Person who on the First Day of April One thousand eight hundred and sixty-seven held the Office of Examiner or Assistant Clerk to any of the Masters in Ordinary of the said Court of Chancery or other Clerk or Clerks whose Office is by this Act abolished shall, upon the Master to whom he shall be such 40 Examiner or Assistant Clerk or Clerks being released from the Duties as such Master under the Authority of this Act, or upon the Death or Resignation of any such Master previously to his being

being so released, continue to be deemed an Officer of the Court of Chancery, and shall hold by the same Tenure, and be entitled to the like Salary and Superannuation Allowance, as if the Master to whose Office he is attached had not resigned or died, and shall, unless or until he shall retire pursuant to the Provisions of the "Court of Chancery (Ireland) Regulation Act, 1850," discharge such Duties in the Office of Receiver Master or otherwise connected with the Business of the Court, or the Arrangement and Classification of the Records of the said Court, as shall be assigned to him by any General Order of the Court, and every such Examiner or Assistant Clerk or Clerks who shall decline to discharge such Duties when called upon to do so shall forfeit any Benefits to which he would be otherwise entitled under this Act.

41. There shall be attached to the said Court a Second Assistant Registrar, who shall hold his Office upon the same Terms and with such Powers in all respects as are provided by a Statute passed in the Fourth Year of His late Majesty King George the Fourth, intituled "An Act for the better Administration of Justice in the "Court of Chancery in Ireland," in relation to the Principal Registrars of the said Court, and every such Assistant Registrar shall discharge such Duties in connexion with the Business of the said Court as shall be assigned to him by General Order of the Court; and there shall be paid to every such Assistant Registrar the net yearly Salary of Eight hundred Pounds, to be increased every Year of Service by the net annual Sum of Twenty-five Pounds until the net yearly Salary of such Assistant Registrar shall amount to the net yearly Salary of One thousand Pounds, but so that no such Increase shall take place without a Certificate of the Lord Chancellor to the like Effect as is provided in the Case of the Chief and Junior Clerks to be appointed under this Act, which Salary shall be paid free from all Deductions, except in respect of Income Tax; and the Lord Chancellor shall tender to each of the Master's Examiners whose Office is abolished by this Act, according to his Seniority in Office, the Option of accepting the said Office of Assistant Registrar; and if such Master's Examiner shall, for One Month after such Option has been tendered to him, neglect or decline to avail himself thereof, then the Lord Chancellor shall tender the like Option to the Examiner next in succession as aforesaid, and so toties quoties; and in case any of the said Examiners shall avail himself of the said Option, the Lord Chancellor shall thereupon appoint such Person to be an Assistant Registrar of the Court, pursuant to this Act; and the Court shall have Power, by General Orders, to regulate the Distribution of Business among the Offices of the said Masters, and to attach any Officer at present

Appointment of Office of Second Assistant Registrar.

Option to Masters Examiners to accept it according to Seniority.

attached to any Master in Ordinary, whose Office is by this Act abolished, to any other Master, and in all respects to prescribe and regulate the Duties of such Officers; and in case all the Masters Examiners shall neglect or decline to avail themselves of the said Option, it shall be lawful for the Lord Chancellor to appoint the 5 Chief Clerk or One of the other Clerks in the Registrar's Office, or some fit or proper Person, having such Qualification as is herein-before prescribed in respect of Persons to be appointed Chief Clerks of the Master of the Rolls and the Vice-Chancellor, to fill the Office of Assistant Registrar of the said Court, pursuant to this 10 Act: Provided always, that nothing herein contained shall be deemed to affect the Right of Succession of the Officers in the Registrar's Office, as now established, to any Office existing previous to the passing of this Act, and that from Time to Time when any Vacancy shall occur in the said Office of Assistant Registrar there shall be 15 the like Right of Succession thereto in said Officers as there now is to such existing Offices.

CLAUSE B.
Assistant
Registrar.

42. That if any Person who shall be first appointed to the Office of Assistant Registrar under this Act shall be an Officer of the Court of Chancery of not less than Fourteen Years Service, it shall 20 be lawful for the Commissioners of Her Majesty's Treasury to direct that he shall, from his said Appointment, be paid the full Salary of One thousand Pounds a Year.

The Mas-
ter's Regis-
trars and
Assistant
Clerks to be
Three of the
Junior
Clerks,
and to hold
during good
Behaviour.

43. The Master of the Rolls and the Vice-Chancellor shall appoint as their First Junior Clerks Four of the Persons who, at 25 the Time of the passing of this Act, are Assistant Clerks and Registrars to the Masters whose Offices are by this Act abolished, if willing to accept the same, and in case Four of the said Assistant Clerks and Registrars shall not accept such Junior Clerkships, then the same shall be tendered to the said Assistant Clerks and 30 Registrars in the Order of their Seniority in Office, and any Assistant Clerk or Registrar who thereupon shall refuse to accept said Office shall, notwithstanding anything herein-before contained, forfeit his Right to receive any retiring Allowance under "The Court of Chancery (Ireland) Regulation Act, 1850:" Provided 35 always, that every Assistant Clerk and Registrar so becoming a Junior Clerk shall hold his Office by the same Tenure as at present so long as he shall personally attend to the Duties of his Office, but shall be removable by the Lord Chancellor, with the Concurrence of the Judge to whose Court he shall be attached, without stating 40 any Cause for such Removal.

44. Upon

44. Upon the Office of Examiner, Assistant Clerk, or Registrar becoming vacant, it shall be lawful for the Lord Chancellor, with the Assent of the Lords Commissioners of Her Majesty's Treasury, to make temporary Provision for the Discharge of the Duties of the Office so vacated, by employing some other Officer or Clerk of the Court of Chancery other than those attached to the Office of the Receiver Master, or, in case there shall be no such Officer or Clerk available for such Employment, by appointing some fit Person to fill such Office, until the Master in whose Office such Vacancy shall occur shall be removed by Resignation, Death, or otherwise, or shall have been released from his Duties under this Act; and every Person so to be employed by the Lord Chancellor shall, so long as he shall be employed, receive such Remuneration as the Lord Chancellor and Lords Commissioners of Her Majesty's Treasury shall fix, and shall be liable to perform the like Duties, and shall be subject to the same Obligations, Prohibitions, and Penalties, as the Officer in whose Place he shall be employed.

Power to the Lord Chancellor to make temporary Provision for Offices vacated.

45. Every existing Officer of the Court of Chancery who shall be appointed Assistant Registrar or Chief Clerk pursuant to this Act shall be entitled to the like retiring or Superannuation Allowances and upon the same Conditions as are provided for Officers by the Thirty-eighth Section of "The Court of Chancery (Ireland) Regulation Act, 1850," and every Assistant Clerk or Registrar who shall be appointed a Junior Clerk pursuant to this Act shall be entitled to the like Superannuation Allowance and upon the same Conditions as are provided by the Thirty-ninth Section of "The Court of Chancery (Ireland) Regulation Act, 1850:" Provided always, that the Period during which any such Person shall have served in the said prior Office or Employment shall be taken into account and allowed in estimating the Period at which he shall be entitled to retire from the Office of Assistant Registrar, Chief Clerk, and Junior Clerk pursuant to this Act, and the Amount of the Superannuation Allowance to which he shall be entitled; and every Assistant Registrar, Chief Clerk, and Junior Clerk, and other Person appointed under the Provisions of this Act other than those for whom Provision is herein-before in this Clause made, shall be deemed a Civil Servant of Her Majesty, and shall be entitled to such Superannuation Allowance on Retirement on the same Terms, and subject to the same Conditions, as are provided for Persons in the permanent Civil Service of the State by "The Superannuation Act, 1859."

CLAUSE C.
Assistant Registrar, Chief and Junior Clerks, to get Superannuations.

46. If at any Time hereafter any of the Masters in Ordinary of the said Court whose Office is hereby abolished, or any of their
[180.] B 4 Examiners, On Appointment of Masters or Examiners

to Office, &c.,
the retiring
Pension
under this
Act to be
regulated by
the Salary,
&c. of such
Office.
15 & 16 Vict.
c. 80. s. 50.

Examiners, Assistant Clerks, or Registrars, shall be appointed to and shall accept any Office or Employment under this Act, or connected with any Court of Law or Equity, or under the Crown, or in any Public Department under the Crown, and if the Salary attached to such Office or Employment, or any retiring Pension or 5 Allowance in respect thereof, shall equal or exceed in Amount the retiring Pension or Compensation payable to such Master, Examiner, Assistant Clerk, or Registrar under this Act, such last-mentioned retiring Pension or Compensation shall during the Continuance of such Master, or such Examiner, Assistant Clerk, or 10 Registrar, in such Office or Employment, or so long as he shall be in the Receipt of any retiring Pension or Allowance in respect thereof equal to or greater than his retiring Pension or Compensation under this Act, cease to be payable to such Master, or such Examiner, Assistant Clerk, or Registrar, as the Case may be; and 15 if the Salary attached to such Office, or the retiring Pension or Allowance in respect thereof, shall be less than the Amount of such Master's retiring Pension, or the Compensation payable under this Act to such Examiner, Assistant Clerk, or Registrar, such Salary, retiring Pension or Compensation under this Act shall be reduced 20 by the Amount of such Salary or of such retiring Pension or Allowance, as the Case may be.

Appropriation of Masters Offices.
15 & 16 Vict.
c. 80. s. 51.

47. Such of the Masters Offices as shall not be assigned by the Lord Chancellor as Chambers for the Masters of the Rolls and Vice-Chancellors respectively, under the Provisions herein-after contained, 25 shall be appropriated to such other Purposes connected with the Court of Chancery as the Lord Chancellor may from Time to Time direct.

Rights and Establishments of the present Masters to continue till released.
15 & 16 Vict.
c. 80. s. 58.

48. Nothing herein contained shall prejudice or affect the Title of the present Masters in Ordinary of the said Court whose Offices 30 are hereby abolished to the Salaries payable to them as such Masters unless and until they shall be respectively released under this Act, or the Power of Her Majesty to order a retiring Allowance to any of them, who may be or become afflicted with some permanent Infirmary disabling him from the due Execution of his 35 Office, and who shall be desirous of resigning the same, or the Power of the Lord Chancellor to order a retiring Allowance to any of their Examiners and Clerks in the like event; and subject to the Provisions herein contained, every of the said Masters in Ordinary of the Court, until released under this Act, shall have the 40 same Establishment of Officers whose Salaries and Compensation shall be payable out of the same Funds as the Salaries and Compensations of such Officers are now payable, and all the Expenses attending

attending the Establishment of the Masters Offices shall be paid in like Manner as such Expenses are now paid.

49. The Office of Receiver Master shall be maintained for the Discharge of the Duties herein specified; and Gerald Fitzgibbon, Esquire, the present Receiver Master of the said Court, shall be the Receiver Master of the said Court, pursuant to this Act, and the said Gerald Fitzgibbon, and his Successors in the said Office, shall discharge the Duties herein-after specified: Provided always, that nothing in this Act contained shall be held to repeal or affect the Provisions of any Act or Acts, or any Law or Usage, relating to the Appointment, Salary, and retiring Annuities of the said Receiver Master, or his Successors in Office, or the Provisions of any Act or Acts relating to the Master's Examiner or Assistant Clerk, or the Establishment or Office of the said Master, or his Successors in Office.

Office of Receiver Master preserved.

50. The said Receiver Master, and his Successors in Office, shall, subject to any General Orders, continue to have, exercise, and perform all such Authorities, Powers, and Duties as shall upon the said First Day of Michaelmas Term One thousand eight hundred and sixty-seven be possessed, exercised, and performed by him, or any other Master in Ordinary of the said Court, with reference to Receivers, Receivers Accounts, and the Management of Estates under Receivers, and all other Matters relating to Receivers, and also all such and such other Authorities, Powers, and Duties as shall on the said First Day of Michaelmas Term One thousand eight hundred and sixty-seven be possessed, exercised, and performed by, or shall be or have been imposed or conferred on him, or on any other Master, with respect to the auditing or keeping of any Accounts, or with respect to Inquiries in Lunacy Matters, or the Discharge of any other Duties in relation thereto respectively: Provided always, that nothing in this Act contained shall affect the Power of the said Receiver Master in relation to the winding-up of any Suits which on the First Day of Michaelmas Term One thousand eight hundred and sixty-seven may be pending in his Office.

Powers of Receiver Master.

51. It shall be lawful for the Lord Chancellor, the Master of the Rolls, the Vice-Chancellor, the Court of Appeal in Chancery, and the Masters to make such References to the said Receiver Master under this Act, and his Successors in Office, in relation to Receivers and the auditing of Accounts, and the Management and letting of Estates, as the Court shall by any General Orders direct, anything in this Act to the contrary notwithstanding.

References to Receiver Master.

PART III.

*Procedure
and
Practice.*

Repeal of
existing
Acts and
Portions of
Acts.

Practice of
engrossing
Bills on
Parchment
to be discon-
tinued, and
printed Bills
to be filed
instead.
15 & 16 Vict.
c. 86. s. 1.

Writs of
Subpœna to
be abolished.
15 & 16 Vict.
c. 86. s. 2.

Defendant
to be served
with a
printed Bill
in lieu of a
Writ of
Subpœna.
15 & 16 Vict.
c. 86. s. 3.

The filing
and Service
of a printed
Bill to have
the same
Effect as the
filing and
issuing of
a Writ of
Subpœna.
15 & 16 Vict.
c. 86. s. 4.

Service of
printed Bill.
15 & 16 Vict.
c. 86. s. 5.

PART III.

Procedure and Practice.

52. From and after the Time appointed for the Commencement of this Part of this Act, the Acts and Parts of Acts mentioned in Schedule (A.) to this present Act shall be and the same are hereby 5 repealed, except in so far as may be necessary for the Purpose of supporting, continuing, or prosecuting any Suit or Proceeding begun before the Time appointed for the Commencement of this Act.

53. From and after the Time appointed for the Commencement of this Part of this Act, the Practice of engrossing on Parchment Bills of Complaint and of filing such Engrossments shall be 10 discontinued; and the Deputy Keeper of the Rolls shall receive and file a printed Bill of Complaint in lieu of an Engrossment thereof, in the same Manner as he now receives such Engrossment.

54. The Writ of Subpœna to appear to and answer a Bill of 15 Complaint in the said Court shall be abolished.

55. In lieu of serving the Defendant to a Bill of Complaint in the said Court with a Writ of Subpœna to appear to and answer the same, the Defendant shall be served with a printed Bill of Complaint, with an Endorsement thereon, in the Form or to the Effect 20 set out in the Schedule (B.) to this Act, with such Variations as Circumstances may require, such printed Bill of Complaint so to be served being previously stamped with a proper Stamp by the Deputy Keeper of the Rolls in Ireland, indicating the filing of such Bill of Complaint, and the Date of the filing thereof. 25

56. The filing of a printed Bill of Complaint in the said Court shall have the same Effect as the filing of a Bill of Complaint in the same Court and the issuing of a Subpœna thereon respectively now have, and the Service upon the Defendant of a printed Bill of Complaint so filed, with such Endorsement thereon, so stamped as 30 aforesaid, shall have the same Effect as the Service on him of a Writ of Subpœna now has, and shall entitle the Plaintiff in such Suit to such Remedies for Default of Appearance and otherwise as he is now entitled to in case of due and proper Service of a Subpœna to appear to and answer a Bill of Complaint. 35

57. The Service upon any Defendant of a printed Copy of a Bill of Complaint in the said Court shall be effected in the same Manner as Service of a Writ of Subpœna to appear to and answer a Bill of Complaint is now effected, save only that it shall not be necessary to

to produce the original Bill, which will be on the Files of the Court; provided that the Court shall be at liberty to direct substituted Service of such printed Bill in such Manner and in such Cases as it shall think fit.

5 **58.** Notwithstanding the Provisions herein-before contained, the Deputy Keeper of the Rolls in Ireland may receive and file a written Copy of any Bill of Complaint, praying a Writ of Injunction or a Writ of Ne exeat regno, upon the personal Undertaking of the Plaintiff or his Solicitor to file a printed Copy of such Bill
10 within Fourteen Days, and every Bill of Complaint so filed shall be deemed and taken to have been filed at the Time of filing the written Copy thereof; and a written Copy of any such Bill of Complaint, stamped as aforesaid, and with such Endorsement thereon as aforesaid, may be served on any Defendant thereto, and such Service
15 shall have the same Effect as the Service of a printed Copy.

Written Copies of Bill may be served, in certain Cases.
15 & 16 Vict. c. 86. s. 6.

59. The Plaintiff in any Suit to be commenced by Bill in the said Court after the Time appointed for the Commencement of this Act shall be bound to deliver to the Defendant or his Solicitor, upon Application for the same, such a Number of printed
20 Copies of his Bill of Complaint, upon being paid for the same at such Rate as shall be prescribed by any General Order of the Court.

Plaintiff to deliver printed Copies of Bill at Rate prescribed by General Order.
15 & 16 Vict. c. 86. s. 7.

60. Upon the Amendment of any Bill of Complaint to be filed in the said Court after the Time appointed for the Com-
25 mencement of this Act, the Provisions herein-before contained with respect to filing and serving and delivering printed Copies thereof shall, so far as may be, extend and be applicable to the Bill as amended; provided that where, according to the present Practice of the said Court in relation to Suits commenced by Bill,
30 an Amendment of a Bill may be made without a new Engrossment thereof, or under such other Circumstances as shall be prescribed by any General Order of the Court, a Bill may be wholly or partially amended by written Alterations in the printed Bill of Complaint so to be filed as aforesaid.

Provisions as to filing, &c. Prints of original Bill extended to Amendments. In certain Cases a printed Bill may be wholly or partially amended.
15 & 16 Vict. c. 86. s. 8.

35 **61.** Every Bill of Complaint to be filed in the said Court after the Time appointed for the Commencement of this Act shall contain, as concisely as may be, a Narrative of the material Facts, Matters, and Circumstances upon which the Plaintiff relies, such Narrative being divided into Paragraphs numbered conse-
40 cutively, and each Paragraph containing, as nearly as may be, a separate and distinct Statement or Allegation, and shall pray spe-

Bills of Complaint to contain concise Narratives of material Facts, &c. divided into numbered Paragraphs, but

not to contain Interrogatories.
15 & 16 Vict.
c. 86. s. 10.

cifically for the Relief which the Plaintiff may conceive himself entitled to, and also for general Relief; but such Bill of Complaint shall not contain any Interrogatories for the Examination of the Defendant.

Next Friend of Infant, &c. in Suit, &c. to sign a written Authority.
15 & 16 Vict.
c. 86. s. 11.

62. Before the Name of any Person shall be used in any Suit in the said Court commenced by Bill as next Friend of any Infant, married Woman, or other Party, or as Relator in any Information, such Person shall sign a written Authority to the Solicitor for that Purpose, and such Authority shall be filed with the Bill or Information.

10

Interrogatories to be filed in the Office of the Deputy Keeper of the Rolls by the Plaintiff within Time prescribed.
15 & 16 Vict.
c. 86. s. 12.

63. Within a Time to be limited by a General Order of the Court in that Behalf, the Plaintiff in any Suit in the said Court commenced by Bill may, if he requires an Answer from any Defendant thereto, file in the Office of the Deputy Keeper of the Rolls in Ireland Interrogatories for the Examination of the Defendant or Defendants, or such of them from whom he shall require an Answer, and deliver to the Defendant or Defendants so required to answer, or to his or their Solicitor, a Copy of such Interrogatories, or of such of them as shall be applicable to the particular Defendant or Defendants; and no Defendant shall be called upon or required to put in any Answer to a Bill unless Interrogatories shall have been so filed, and a Copy thereof delivered to him or his Solicitor, within the Time so to be limited, or within such further Time as the Court shall think fit to direct.

15

20

Defendant may answer without Leave within Time fixed by a General Order, but after that Time must have Leave.
15 & 16 Vict.
c. 86. s. 13.

64. Whether the Plaintiff in any Suit in the said Court commenced by Bill does or does not require any Answer from the Defendant or any One or more of the Defendants to the Bill, such Defendant or Defendants may, without any Leave of the Court, put in an Answer or Demurrer to the Plaintiff's Bill within such Time as shall be fixed by any General Order of the Court in that Behalf; but after that Time a Defendant or Defendants not required to answer the Plaintiff's Bill shall not be at liberty to put in an Answer or Demurrer to the Bill without Leave of the Court; provided that the Power of the Court to grant further Time for answering or demurring to any Bill, upon the Application of any Defendant or Defendants thereto, whether required to answer the Bill or not, shall remain in full Force, and shall not be in anywise prejudiced or affected; provided also, that if the Court shall grant any further Time to any Defendant for answering or demurring to the Bill, the Plaintiff's Right to move for a Decree under the Provisions hereinafter contained shall in the meantime be suspended.

25

30

35

40

65. The

65. The Answer of the Defendant to any Bill of Complaint in the said Court may contain, not only the Answer of the Defendant to the Interrogatories so filed as aforesaid, but such Statements material to the Case as the Defendant may think it necessary or
 5 advisable to set forth therein, and such Answer shall also be divided into Paragraphs numbered consecutively, each Paragraph containing as nearly as may be a separate and distinct Statement or Allegation.

Defendant's Answer may contain not only Answer to Interrogatories, but Statements material to his Case.
 15 & 16 Vict. c. 86. s. 14..

66. It shall not be competent to any Defendant in any Suit
 10 commenced by Bill in the said Court to take any Objection for Want of Parties to such Suit in any Case to which the Rules next herein-after set forth extend; and such Rules shall be deemed and taken as Part of the Law and Practice of the said Court, and any Law or Practice of the said Court inconsistent therewith shall be
 15 and is hereby abrogated and annulled.

Defendant not to take Objection for Want of Parties in any Case to which Rules herein set forth shall extend.

Rule 1. Any Residuary Legatee or Next of Kin may, without serving the remaining Residuary Legatees or Next of Kin, have a Decree for the Administration of the Personal Estate of a deceased Person.

15 & 16 Vict. c. 86. s. 42.

20 Rule 2. Any Legatee interested in a Legacy charged upon Real Estate, and any Person interested in the Proceeds of Real Estate directed to be sold, may, without serving any other Legatee or Person interested in the Proceeds of the Estate, have a Decree for the Administration of the Estate of a deceased
 25 Person.

Rule 3. Any Residuary Devisee or Heir may, without serving any Co-residuary Devisee or Co-heir, have the like Decree.

Rule 4. Any One of several Cestuis que Trust under any Deed or Instrument may, without serving any other of such Cestuis
 30 que Trust, have a Decree for the Execution of the Trusts of the Deed or Instrument.

Rule 5. In all Cases of Suits for the Protection of Property pending Litigation, and in all Cases in the Nature of Waste, One Person may sue on behalf of himself and of all Persons
 35 having the same Interest.

Rule 6. Any Executor, Administrator, or Trustee may obtain a Decree against any One Legatee, Next of Kin, or Cestui que Trust for the Administration of the Estate, or the Execution of the Trusts.

40 Rule 7. Any Mortgagee or other Incumbrancer on Land may have a Decree for a Foreclosure and Sale, or a Sale of the mortgaged Lands, without serving any other Mortgagee or Incumbrancer, or a Trustee for such Mortgagee or Incumbrancer, unless such Mortgagee, Incumbrancer, or Trustee is
 [180.]

in the actual Possession or Receipt of the Rents and Profits of the mortgaged or incumbered Lands: Provided always, that a Person at whose Suit or for whose Benefit a Receiver or Sequestrator has been appointed or extended, or continues to receive the Rents and Profits of the Lands, shall not be deemed 5 to be in Receipt of such Rents and Profits within the Meaning of this Rule.

Rule 8. In all the above Cases the Court, if it shall think fit, may require any other Person or Persons to be made a Party or Parties to the Suit, and may, if it shall see fit, give the Conduct 10 of the Suit to such Person as it may deem proper, and may make such Order in any particular Case as it may deem just for placing the Defendant on the Record on the same Footing in regard to Costs as other Parties having a common Interest with him in the Matters in question. 15

Rule 9. In all the above Cases the Persons who, according to the Practice of the Court (previous to the passing of the Court of Chancery (Ireland) Regulation Act, 1850), would have been necessary Parties to the Suit, shall be served with Notice of the Decree, and after such Notice they shall, unless Cause be shown 20 to the contrary, within a Time to be limited by a General Order of the Court, be bound by the Proceedings in the same Manner as if they had been originally made Parties to the Suit, and they may by an Order of course have Liberty to attend the Proceedings under the Decree; and any Party so served may, 25 within such Time as shall in that Behalf be prescribed by the General Order of the Court, apply to the Court to add to or vary the Decree.

Rule 10. In all Suits concerning Real or Personal Estate which is vested in Trustees under a Will, Settlement, or otherwise, such 30 Trustees shall represent the Persons beneficially interested under the Trust, in the same Manner and to the same Extent as the Executors or Administrators in Suits concerning Personal Estate represent the Persons beneficially interested in such Personal Estate; and in such Cases it shall not be necessary to 35 make the Persons beneficially interested under the Trusts Parties to the Suit; but the Court may, upon Consideration of the Matter, on the Hearing, if it shall so think fit, order such Persons or any of them to be made Parties.

Practice of
setting down
a Cause on
Objection for
Want of
Parties
abolished.
15 & 16 Vict.
c. 86. s. 43.

67. The Practice of the said Court of setting down a Cause 40 merely on an Objection for Want of Parties to the Suit shall be abolished.

68 The

68. The Plaintiff in any Suit commenced by Bill shall be at liberty, at any Time after the Time allowed to the Defendant for answering the same shall have expired (but before Replication), to move the Court, upon such Notice as shall in that Behalf be prescribed by any General Order of the Court, for such Decree or Decretal Order as he may think himself entitled to; and the Plaintiff and Defendant respectively shall be at liberty to file Affidavits in support of and in opposition to the Motion so to be made, and to use the same on the Hearing of such Motion; and if such Motion shall be made after an Answer filed in the Cause the Answer shall for the Purposes of the Motion be treated as an Affidavit.

Plaintiff may, on Expiration of Time for answering, but before Replication, move for a Decree or Decretal Order. Affidavits may be filed. 15 & 16 Vict. c. 86. s. 15.

69. Upon any such Motion for a Decree or Decretal Order it shall be discretionary with the Court to grant or refuse the Motion, or to make an Order giving such Directions for or with respect to the further Prosecution of the Suit as the Circumstances of the Case may require, and to make such Order as to Costs as it may think right.

Court may refuse such Motion, or make Order for further Prosecution, &c. 15 & 16 Vict. c. 86. s. 16.

70. All Exceptions for Insufficiency, and all Objections for Prolixity or Scandal which according to the existing Practice of the Court in Suits commenced by Bill are determined by the Master of the Court shall be heard and determined by the Court itself, and the Practice of objecting to Bills, Answers, and other Proceedings in the said Court for Impertinence shall be and the same is hereby abolished: Provided always, that it shall be lawful for the Court to direct the Costs occasioned by any impertinent Matter introduced into any Proceeding in the said Court to be paid by the Party introducing the same, upon Application being made to the Court for that Purpose.

Practice of excepting to Bills, Answers, &c. for Impertinence abolished. Proviso as to Costs. 15 & 16 Vict. c. 86. s. 17. 13 & 14 Vict. c. 35. s. 27.

71. It shall be lawful for the Court, upon the Application of the Plaintiff in any Suit commenced by Bill, whether the Defendant may or may not have been required to answer the Bill, or may or may not have been interrogated as to the Possession of Documents, to make an Order for the Production by any Defendant upon Oath of such of the Documents in his Possession or Power relating to Matters in question in the Suit as the Court shall think right; and the Court may deal with such Documents, when produced, in such Manner as shall appear just.

Court may order Defendant to produce Documents, &c. on Oath. 15 & 16 Vict. c. 86. s. 18.

72. It shall be lawful for any Defendant in any Suit commenced by Bill (but as to Suits in which the Defendant is required to answer not until after the Defendant shall have put in a sufficient

In certain Cases Defendant, after Answer, may

file Interrogatories for Examination of Plaintiff.
15 & 16 Vict.
c. 86. s. 19.

Answer to the Bill), and without filing any Cross Bill of Discovery, to file in the Office of the Deputy Keeper of the Rolls in Ireland Interrogatories for the Examination of the Plaintiff, to which shall be prefixed a concise Statement of the Subjects on which a Discovery is sought, and to deliver a Copy of such Interrogatories to the 5 Plaintiff or his Solicitor; and such Plaintiff shall be bound to answer such Interrogatories, in like Manner as if the same had been contained in a Bill of Discovery filed by the Defendant against him on the Day when such Interrogatories shall have been filed, and as if the Defendant to such Bill of Discovery had on the same 10 Day duly appeared; and the Practice of the Court with reference to excepting to Answers for Insufficiency or Objections for Scandal shall extend and be applicable to Answers put in to such Interrogatories: Provided always, that in determining the Materiality or Relevancy of any such Answer, or of any Exception or Objection 15 thereto, the Court is to have Regard to the Statements contained in the original Bill, and in the Answer which may have been put in thereto by the Defendant exhibiting such Interrogatories for the Examination of the Plaintiff: Provided also, that a Defendant, if he shall think fit so to do, may exhibit a Cross Bill of Discovery against 20 the Plaintiff, instead of filing Interrogatories for his Examination.

Defendant may exhibit a Cross Bill instead of filing Interrogatories.

Upon Application of Defendant, after Answer, Plaintiff may be required to produce Documents on Oath.
15 & 16 Vict.
c. 86. s. 20.

73. It shall be lawful for the Court, upon the Application of any Defendant in any Suit commenced by Bill, but as to Suits in which the Defendant is required to answer the Plaintiff's Bill not until after he has put in a full and sufficient Answer to the Bill, unless 25 the Court shall make any Order to the contrary, to make an Order for the Production by the Plaintiff in such Suit, on Oath, of such of the Documents in his Possession or Power relating to the Matters in question in the Suit as the Court shall think right; and the Court may deal with such Documents, when produced, in such 30 Manner as shall appear just.

Practice of issuing Commissions to take Answers, &c. within the Jurisdiction of the Court abolished.
15 & 16 Vict.
c. 86. s. 21.

74. The Practice of the said Court, of issuing Commissions to take Answers, Disclaimers, and Examinations in Causes and Matters pending in the said Court, shall, with respect to Answers, Disclaimers, and Examinations taken within the Jurisdiction of the 35 Court, be and the same is hereby abolished; and any such Answer, Disclaimer, or Examination may be filed without any further or other Formality than is required in the swearing and filing of an Affidavit.

Masters Extraordinary to cease to be so styled,

75. The Persons now styled Masters Extraordinary in Chancery 40 shall cease to be so styled, and they, and all Persons hereafter appointed by the Lord Chancellor to execute the like Duties in Ireland,

Ireland, shall be designated “ Commissioners to administer Oaths in Chancery in Ireland,” and shall possess and exercise all such Powers and discharge all such Duties as now appertain to the Office of Master Extraordinary in Chancery by virtue of any Statute or Order of the Court of Chancery or of the Lord Chancellor, or Usage in that Behalf, or otherwise.

and to be designated Commissioners.

16 & 17 Vict. c. 78. s. 1.

76. It shall be lawful for the Lord Chancellor from Time to Time to appoint any Persons practising as Solicitors within Ten Miles from the Four Courts, Dublin, to administer Oaths and take Affidavits in Chancery, and to possess all such other Powers and discharge all such other Duties as aforesaid; and such Persons shall be styled “ Dublin Commissioners to administer Oaths in Chancery,” and they shall be entitled to charge and take a Fee of One Shilling and Sixpence for every Oath administered and for every Affidavit taken by them, subject to any General Order of the Court varying or annulling the same.

Power to appoint Solicitors residing within Ten Miles of Dublin as Commissioners to take Oaths.

16 & 17 Vict. c. 78. s. 2.

77. From and after the Time appointed for the Commencement of this Act it shall and may be lawful for the Clerk of Affidavits and Clerk of Recognizances in Chancery for the Time being, and they are hereby authorized and required, to administer Oaths and take Affidavits in Chancery : Provided always, that such Clerks shall not be required, except under a special Order of the Court, to go out of their respective Offices to administer the said Oaths or take the said Affidavits, and that when any such Clerk shall be required by any Order of the Court to attend out of his said Office for the Purposes aforesaid, the Charge for every such Attendance, together with the Rate of his Travelling Expenses, if any, shall be expressed in such Order of the Court; and that it shall and may be lawful for such Clerk to receive such Sum for his Attendance, and also such Rate of Travelling Expenses, as shall be expressed in such Order of the Court, and no other or greater Sum.

Clerk of Affidavits and Clerk of Recognizances may administer Oaths and take Affirmations.

78. It shall be lawful for the Lord Chancellor from Time to Time to appoint any Persons practising as Solicitors in the Isle of Man and in the Channel Islands, or any of them, to administer Oaths and take Affidavits, and to possess all such other Powers and discharge all such other Duties as aforesaid; and such Persons shall be styled “ Commissioners to administer Oaths in Chancery,” with the Addition of the Words “ for the Isle of Man,” or “ for the Channel Islands,” as the Case may be; and they shall be entitled to charge and take the same Fees as the said Commissioners to administer Oaths in Chancery.

Commissioners may be appointed to administer Oaths for the Isle of Man and the Channel Islands.

16 & 17 Vict. c. 78. s. 3.

Commissioners Appointed to bear a Chancery Stamp of 17. in lieu of other Charges.
16 & 17 Vict. c. 78. s. 4.

79. The Fiat or Document by which any such Commissioners as aforesaid shall be appointed shall bear a Chancery Fund Stamp of One Pound, but no other Charge or Fee shall be made or be payable in respect of such Appointment, or of anything requisite to be done in order to perfect the same; and it shall not be necessary 5 that any such Appointment should be published in the Dublin Gazette.

Nothing to lessen the Power of the Lord Chancellor. References to Masters Extraordinary in Acts to apply to Commissioners.
16 & 17 Vict. c. 78. s. 5.

80. Nothing herein contained shall abridge or lessen the Power of the Lord Chancellor, as it now exists; to appoint fit Persons to administer Oaths, and take Affidavits in Chancery, or to regulate 10 the Fees to be taken by them, and where any Act of Parliament refers to the Masters Extraordinary in Chancery, or to their Powers or Duties, the Reference shall be held to apply to and include the Commissioners herein-before mentioned, or to their Powers or Duties, as the Case may be: Provided that Solicitors and Attornies of not 15 less than Five Years Standing shall be preferred for such Appointments if otherwise suited thereto.

Answers, Affidavits, &c. in Chancery, how to be sworn and taken in England, Scotland, the Channel Islands, &c.
15 & 16 Vict. c. 86. s. 22.

81. All Answers, Disclaimers, Examinations, and Affidavits, in Causes or Matters depending in the High Court of Chancery in Ireland, and also Acknowledgments required for the Purpose of enrolling 20 any Deed in the said Court, shall and may be sworn and taken in England or Scotland, or the Isle of Man, or the Channel Islands, or in any Colony, Island, Plantation, or Place under the Dominion of Her Majesty in Foreign Parts, before any Judge, Court, Notary Public, or Person lawfully authorized to administer Oaths in such 25 Country, Colony, Island, Plantation, or Place respectively, or before any of Her Majesty's Consuls or Vice-Consuls in any Foreign Parts out of Her Majesty's Dominions; and the Judges and other Officers of the said Court of Chancery shall take Judicial Notice of the Seal or Signature, as the Case may be, of any such Court, Judge, Notary 30 Public, Person, Consul, or Vice-Consul, attached, appended, or subscribed to any such Answers, Disclaimers, Examinations, and Affidavits, Acknowledgments, or other Documents to be used in the said Court.

Penalty for falsely swearing, &c.
15 & 16 Vict. c. 86. s. 23.

82. All Persons swearing before any Person authorized by this 35 Act to administer Oaths and take Affidavits shall be liable to all such Penalties, Punishments, and Consequences for any wilful and corrupt false swearing contained therein as if the Matter sworn had been sworn before any Court or Person now by Law authorized to administer Oaths and take Declarations, Affirmations, or 40 Attestations upon Honour.

83. If

83. If any Person shall forge the Signature or the Official Seal of any such Judge, Court, Notary Public, Consul or Vice-Consul, or other Person lawfully authorized to administer Oaths under this Act, or shall tender in Evidence any Answer, Disclaimer, Examination, Affidavit, or other Judicial or Official Document with a false or counterfeit Signature or Seal of any such Judge, Court, Notary Public, Consul or Vice-Consul, or other Person authorized as aforesaid, attached or appended thereto, knowing the same Signature or Seal to be false or counterfeit, every such Person shall be guilty of Felony, and shall be liable to the same Punishment as any Offender under an Act passed in the Eighth and Ninth Years of the Reign of Her present Majesty, intituled "An Act to facilitate the Admission in Evidence of certain Official and other Documents."

Penalty for forging Signature or Seal of Judge, &c. empowered to administer Oaths under this Act. 15 & 16 Vict. c. 86. s. 24.

84. Answers, Disclaimers, Examinations, and Affidavits, whether taken by Commission out of the Jurisdiction of the said Court or otherwise, may be filed without the Oath of a Messenger, and any Alterations made thereon previously to the taking thereof shall be authenticated according to the Practice now in use with respect to Affidavits.

Answers to be filed without Oath of Messenger.

85. In Suits in the said Court commenced by Bill, where Notice of Motion for a Decree or Decretal Order shall not have been given, or, having been given, where a Decree or Decretal Order shall not have been made thereon, Issue shall be joined by filing a Replication in the Form given in Schedule (B.) to this Act, or in such other Form as shall be prescribed by a General Order of the Court; and where a Defendant shall not have been required to answer and shall not have answered the Plaintiff's Bill he shall be considered to have traversed the Case made by the Bill.

Issue may be joined by filing Replication. 15 & 16 Vict. c. 86. s. 26.

86. Where a Defendant to a Suit in the said Court commenced by Bill shall not have been required to answer the Bill, and shall not have answered the same, such Defendant shall be at liberty to move to dismiss the Bill for Want of Prosecution, at such Times, and under such Circumstances, and subject to such Restrictions as shall be in that Behalf prescribed by any General Order of the Court.

Defendant not having been required to answer and not answering may move for Dismissal of Bill for Want of Prosecution. 15 & 16 Vict. c. 86. s. 27.

87. The Mode of examining Witnesses in Suits in the said Court commenced by Bill, and all the Practice of the said Court in relation thereto, so far as such Practice shall be inconsistent with the Mode herein-after prescribed of examining such Witnesses, and the Practice in relation thereto, shall, from and after the Time appointed for the Commencement of this Act, be abolished: Provided always, that

Practice of Court as to Mode of examining Witnesses abolished. Court may order particular Wit-

nesses to be
examined
upon Inter-
rogatories.

15 & 16 Vict.
c. 86. s. 28.

that the Court may, in any Suit commenced by Bill, if it shall think fit, order any particular Witness or Witnesses within the Jurisdiction of the said Court, or any Witness or Witnesses out of the Jurisdiction of the said Court, to be examined upon Interrogatories in the Mode now practised in the said Court in such Suits; and that with respect to such Witness or Witnesses the Practice of the said Court in such Suits in relation to the Examination of Witnesses shall continue in full Force, save only as far as the same may be varied by any General Order of the Court in that Behalf, or by any Order of the Court with reference to any particular Case.

Judge may,
upon Appli-
cation, order
that the Evi-
dence as to
certain Facts
or Issues
shall be
taken vivâ
voce at the
Hearing.

88. When any Cause commenced by Bill shall be at issue, the Plaintiff or any Defendant may, within such Time as shall be fixed by a General Order of the Court, apply by Summons, to be served upon the opposite Party, for an Order that the Evidence in Chief as to any Facts or Issues, such Facts or Issues to be distinctly and concisely stated in the Summons, may be taken vivâ voce at the Hearing of the Cause; and that the Judge may make an Order that the Evidence in Chief as to such Facts and Issues, or any of them, shall be taken vivâ voce at the Hearing accordingly; and the Facts and Issues as to which any such Order shall direct that the Evidence in Chief shall be taken vivâ voce at the Hearing shall be distinctly specified in such Order; but in case the Judge shall be satisfied that such Application is unreasonable, or made for the Purpose of Delay, Oppression, or Vexation, he may refuse to make any such Order; and where any such Order shall have been made the Examination in Chief as well as the Cross-examination and Re-examination shall be taken before the Court at the Hearing as to the Facts and Issues specified in such Order.

Evidence as
to Facts not
included in
such Order
as in last
Section to be
taken by
Affidavit or
Examina-
tion before
the Exa-
miner.

89. No Affidavit nor any Evidence taken before an Examiner shall be admissible at the Hearing of any such Cause as mentioned in the last preceding Section in respect of any Fact or Issue which shall be included in any Order directing Evidence in Chief to be taken vivâ voce at the Hearing, but, except as to the Facts or Issues included in such Order, each Party in a Cause in which Issue is joined shall be at liberty to verify his Case, either wholly or partially by Affidavit, or wholly or partially by the oral Examination of Witnesses ex parte before the Examiner of the Court, or an Examiner to be specially appointed by the Court or Judge.

Any Party
in a Cause
may by Sub-
pœna require

90. Each Party shall be at liberty to sue out of the Office of the Clerk of Appearances and Writs Writs of Subpœna ad testificandum and Duces tecum to compel the Attendance at the Hearing of Witnesses

Witnesses whom he may desire to produce on any Issue or Matter of Fact included in such Order as is mentioned in the Eighty-ninth Section of this Act.

Attendance of any Witness at the Hearing.

91. Any Party in any Suit depending in the Court shall be at liberty to sue out a Writ of Subpœna ad testificandum or Duces tecum to compel the Attendance of any Witness before an Examiner of the said Court, or before an Examiner specially appointed as aforesaid, and examine such Witness orally, for the Purpose of using his Evidence upon any Motion, Petition, or other Proceeding before the Court; and every such Witness shall be bound to attend for Examination and shall be examined in like Manner as he would be bound to attend and be examined with a view to the Hearing of a Cause in which Issue is joined.

Any Party in a Suit may by Subpœna require Attendance of any Witness before an Examiner. 15 & 16 Vict. c. 86. s. 40.

92. Except as herein-after provided, all Examinations taken by the Examiners of the Court, or by any special Examiner, for the Purpose of being used at the Hearing of a Cause in which Issue is joined, shall be taken ex parte, the Examiner being furnished by the Plaintiff with a Copy of the Bill and Answer, if any, in the Cause; and no Person shall have a Right to be present at the taking of such Examination except the Party producing the Witness, his Counsel, Solicitor, and Agents; and every Deposition taken upon such Examination shall be deemed to be an Affidavit; and the Examiner, before transmitting the same to the Office of the Clerk of Affidavits, to be filed as herein-after provided, shall mark the same as taken ex parte.

Examination before the Examiner to be ex parte.

93. Every Witness, whether a Party or not, who has made an Affidavit to be used at the Hearing of a Cause in which Issue is joined, or who has been examined ex parte before an Examiner with a view to such Hearing, and also every Person, whether a Party or not, who has made an Affidavit to be used upon any Motion, Petition, or other Proceeding before the said Court, shall be subject to oral Cross-examination by any opposite Party, either before the Court, or, in the Cases herein-after provided, before an Examiner, and after such Cross-examination may be re-examined orally by or on behalf of the Party by whom such Affidavit has been filed or Witness examined; and such Witness shall be bound to attend before the Court or such Examiner, to be so cross-examined and re-examined, upon being served with a Writ of Subpœna ad testificandum or Duces tecum; and the Party by whom or on whose Behalf such Affidavit shall have been filed or Witness examined shall be bound to produce such Deponent or Witness before the Court or Examiner, as the Case may be, to be so cross-examined and re-examined, upon

Witnesses by Affidavits or who have been examined ex parte before the Examiner may be cross-examined and re-examined.

And the Party filing their Affidavits or producing

them bound
to produce
them for this
Purpose.

due and proper Notice for that Purpose being served upon such Party or his Solicitor; and unless such Deponent or Witness be produced accordingly such Affidavit or Examination shall not be used as Evidence, unless by special Leave of the Court: Provided always, that the Party required to produce such Deponent or 5 Witness shall be entitled to demand the reasonable Expenses of the said Deponent or Witness, in the first instance, if not already paid to such Deponent or Witness, from the Party requiring such Production, but such Expenses shall ultimately be borne as the Court shall direct: Provided also, that upon the Hearing of any Motion, 10 Petition, or other Proceeding the Court shall always have a discretionary Power of acting upon such Evidence as may be before it, and of making such Interim Orders, or otherwise, as may appear necessary to meet the Justice of the Case.

In Causes in
which Issue
is joined
Cross-exa-
mination to
be before
the Court at
the Hearing.

94. Except as herein-after provided, no Cross-examination of any 15 Deponent or Witness, or of any Party, to be used at the Hearing of a Cause in which Issue is joined, shall be taken otherwise than before the Court at the Hearing.

Parties may,
by written
Consent,
agree that
Examina-
tion, Cross-
examination,
and Re-
examination
of Witnesses
shall take
place before
the Exa-
miner.

95. If at any Time after Issue joined the Parties shall, by Writing signed by them or their respective Solicitors, and filed at 20 the Office of the Deputy Keeper of the Rolls, agree that the oral Examination in Chief, Cross-examination, and Re-examination of any Witness or Witnesses (whether a Party or Parties or not), or the Cross-examination and Re-examination of any Person or Persons who shall have made an Affidavit or Affidavits, or who shall have 25 been examined ex parte before an Examiner, shall be taken before the Examiner of the Court or a special Examiner, such Examination, Cross-examination, and Re-examination, or Cross-examination and Re-examination, may be taken accordingly, and shall be conducted in the Manner herein-after provided. 30

Power to the
Court or
Judge in
certain Cases
to direct
Examination
and Cross-
examination
to take place
before the
Examiner.

96. The Court or the Judge may direct that the oral Examination, Cross-examination, and Re-examination of any Witness (whether 35 a Party or not), or the Cross-examination and Re-examination of any Person who has been examined ex parte before an Examiner or made an Affidavit, shall be taken before an Examiner of the Court or a special Examiner, in case it shall appear to the Court or Judge that, owing to the Age, Infirmary, or Absence out of the Jurisdiction of such Witness or Person, or for any other Cause which to the Judge shall appear sufficient, it is expedient that such Direction should be given. 40

97. In

97. In all such Cases as are provided for in the last Two preceding Sections the Examination in Chief, Cross-examination, and Re-examination, or the Cross-examination and Re-examination, of any such Witness or Person as therein respectively mentioned, shall be
 5 taken before the same Examiner or special Examiner, or his Successor in Office; and the Cross-examination of every Witness or Person examined in chief shall immediately follow his Examination in Chief; and such Examination, Cross-examination, and Re-examination, or Cross-examination and Re-examination, as the
 10 Case may be, shall take place in the Presence of the Parties, their Counsel, Solicitors, or Agents, and shall be conducted as nearly as may be in the Mode now in use in Courts of Common Law with respect to a Witness about to go abroad, and not expected to be present at the Trial of a Cause.

In Cases provided for by the last Two Sections the Examination in Chief, Cross-examination, and Re-examination to take place before the same Examiner.

15 98. In Suits to perpetuate Testimony Evidence shall continue to be taken according to the now existing Practice in Cases of Bills filed to perpetuate Testimony.

In Suits to perpetuate Testimony Evidence to be taken according to present Practice.

99. The Depositions taken upon any such oral Examination, Cross-examination, and Re-examination as aforesaid before an Exa-
 20 miner shall be taken down in Writing by the Examiner, not ordinarily by Question and Answer, but in the Form of a Narrative, and in the First Person and when completed shall be read over to the Witness, and signed by him: Provided always, that in case the Witness shall refuse to sign the said Depositions, then the Examiner shall sign
 25 the same, and such Examiner may, upon all Examinations, state any special Matter to the Court as he shall think fit; provided also, that it shall be in the Discretion of the Examiner to put down any particular Question or Answer, if there should appear any special Reason for doing so; and any Question or Questions which may be objected
 30 to shall be noticed or referred to by the Examiner in or upon the Depositions, and he shall state his Opinion thereon to the Counsel, Solicitors, or Parties, and shall refer to such Statement on the Face of the Depositions, but he shall not have Power to decide upon the Materiality or Relevancy of any Question or Questions; and the
 35 Court shall have Power to deal with the Costs of immaterial or irrelevant Depositions as may be just.

Depositions to be taken down in Writing, and read over to the Witness, who shall sign the same, but if he refuse to sign Examiner may, and state any special Matter he may think fit.

15 & 16 Vict. c. 86. s. 32.

100. If any Person produced as a Witness before any such Examiner shall refuse to be sworn or to answer any lawful Question put to him by the Examiner or by either of the Parties, or by his or
 40 their Counsel, Solicitor, or Agent, the same Course shall be adopted with respect to such Witness as is now pursued in the Case of a Witness produced for Examination before an Examiner of the
 [180.] D 4 Court

If Parties refuse to be sworn or to answer any lawful Questions, the same Course to be pursued as is now adopted.

Proviso as
to Witness
demurring
to Questions.
15 & 16 Vict.
c. 86. s. 33.

Court upon written Interrogatories, and refusing to be sworn or to answer some lawful Question : Provided always, that if any Witness shall demur or object to any Question or Questions which may be put to him, the Question or Questions so put, and the Demurrer or Objection of the Witness thereto, shall be taken down by the Examiner, and transmitted by him to the Office of the Clerk of Affidavits of the Court, to be there filed, and the Validity of such Demurrer or Objection shall be decided by the Court; and the Costs of and occasioned by such Demurrer or Objection shall be in the Discretion of the Court.

10

Re-exami-
nation of
Witness to
follow Cross-
examination.

101. The Re-examination of a Witness shall in all Cases follow his Cross-examination, and shall not, except by Consent or special Order of the Court, be delayed to a future Time.

Original
Depositions
to be trans-
mitted to the
Office of the
Clerk of
Affidavits.
15 & 16 Vict.
c. 86. s. 34.

102. When the Examination or Cross-examination and Re-examination of Witnesses before any Examiner shall have been concluded, the original Depositions, authenticated by the Signature of such Examiner, shall be transmitted by him to the Office of the Clerk of Affidavits, to be there filed; and any Person may have a Copy thereof, or of any Part or Portion thereof, upon Payment for the same, at such Time and in such Manner as shall be provided by any General Order of the Court in that Behalf.

Commission
for Exami-
nation of
Witnesses
dispensed
with, and
Examiner
empowered
to administer
Oaths.
15 & 16 Vict.
c. 86. s. 35.

103. It shall not be necessary to sue out any Commission for the Examination of any Witnesses within the Jurisdiction of the Court; and any Examiner appointed by any Order of the Court shall have the like Power of administering Oaths as Commissioners now have under Commissions issued by the Court for the Examination of Witnesses.

Affidavits to
be divided
into Para-
graphs num-
bered.
15 & 16 Vict.
c. 86. s. 37.

104. Every Affidavit to be used in the Court shall be taken in the First Person and be divided into Paragraphs, and every Paragraph shall be numbered consecutively, and as nearly as may be shall be confined to a distinct Portion of the Subject; and every Affidavit to be used at the Hearing of a Cause in which Issue is joined shall, unless the Court or Judge shall otherwise permit or direct, be prepared in the Form of Answers to Interrogatories directed to the Facts or Issues to be proved, and consecutively numbered and set out at the Head of such Affidavit, and the Answers thereto shall be in distinct Paragraphs numbered in corresponding Numbers; but all such Affidavits shall be prepared and sworn in all other respects as other Affidavits used in the Court.

105. Except

105. Except as to Facts or Issues included in any such Order as mentioned in the Eighty-ninth Section of this Act, and except as to the Cross-examination and Re-examination of Witnesses at the Hearing, the Evidence at both Sides to be used at the Hearing of a Cause in which Issue is joined shall be closed within such Time as shall in that Behalf be prescribed by any General Order of the Court, but with Power to the Court to enlarge such Period as it may think fit; and after the Time fixed for closing the Evidence, no further Evidence, whether oral or by Affidavit, shall be receivable without special Leave of the Court previously obtained for that Purpose.

Closing Evidence, Cross-examination, and Re-examination.

106. Upon the Hearing of any Cause commenced by Bill and depending in the Court, the Court, if it shall see fit so to do, may require the Production and oral Examination before itself of any Witness or Party in the Cause, and may direct the Costs of and attending the Production and Examination of such Witness or Party to be paid by such of the Parties to the Suit or in such Manner as it may think fit.

Court may require the Production and oral Examination before itself of any Witness, &c., and determine Payment of the Costs.

15 & 16 Vict. c. 86. s. 39.

107. In Cases where it shall be necessary for any Party to any Cause depending in the Court to go into Evidence subsequently to the Hearing of such Cause, such Evidence shall be taken in such Manner as shall be prescribed in a General Order of the Court.

Evidence subsequent to Hearing to be taken as the Court shall prescribe by General Orders.

108. Notwithstanding any Rule or Practice to the contrary, it shall be lawful for the Court, at the Hearing of any Cause or at a Hearing for any further Directions therein, to receive Proof by Affidavit of all proper Parties being before the Court, and of all such Matters as are necessary to be proved for enabling the Court to order Payment of any Monies belonging to any married Woman, and of all such other Matters not directly in issue in the Cause as in the Opinion of the Court may safely and properly be so proved.

Power for Court, notwithstanding any Rule, &c. to the contrary, to receive Proof by Affidavit.

13 & 14 Vict. c. 35. s. 28.

109. Where any Deed or Document, or any Record, or any Portion thereof respectively, shall be relied on in any Pleading, the said Deed or Document, or the Copy of such Record, shall be produced upon every Hearing, or Motion, or other Proceeding in the said Suit, unless its Non-production can be satisfactorily excused; and in default thereof it shall be lawful for the Court or Judge before whom such Hearing, Motion, or other Proceeding shall take place to exclude the Party so in default from all Benefit or Advantage of the said Deed, Document, or Record, and to make such Order for the Postponement of such Hearing, Motion, or other Proceeding, and the Payment of the Costs occasioned by such Postponement, as shall seem to be just; and in the event of such

Deeds and Documents referred to in Pleadings to be produced on Hearings, Motions, and other Proceedings.

Deed or Document, or the Copy of such Record, being produced, it shall be lawful for the Court or Judge to direct the same to be entered upon the Decree or Order of the Court to be made upon such Hearing, Motion, or other Proceeding, and to make such consequential Order in relation to Costs as to them or him shall 5 seem fit.

Court may proceed in any Suit, &c. without Representative of deceased Person, or may appoint one. 15 & 16 Vict. c. 86. s. 44.

110. If in any Suit before the Court it shall appear to the Court that any deceased Person who was interested in the Matters in question has no legal Representative, it shall be lawful for the Court either to proceed in the Absence of any Person representing 10 the Estate of such deceased Person, or to appoint some Person to represent such Estate for all the Purposes of the Suit or other Proceeding, on such Notice to such Person or Persons, if any, as the Court shall think fit, either specially, or generally by public Advertisements; and the Order so made by the Court, and any 15 Orders consequent thereon, shall bind the Estate of such deceased Person in the same Manner in every respect as if there had been a duly constituted legal personal Representative of such deceased Person, and such legal personal Representative had been a Party to the Suit or Proceeding, and had duly appeared and submitted 20 his Rights and Interests to the Protection of the Court.

Power to Persons interested in Questions cognizable in Court of Chancery to state Special Cases for the Opinion of the Court. 13 & 14 Vict. c. 35. s. 1.

111. It shall be lawful for Persons interested or claiming to be interested in any Question cognizable in the Court as to the Construction of any Act of Parliament, Will, Deed, or other Instrument in Writing, or any Article, Clause, Matter, or Thing therein 25 contained, or as to the Title or Evidence of Title to any Real or Personal Estate contracted to be sold or otherwise dealt with, or as to the Parties to or the Form of any Deed or Instrument for carrying any such Contract into effect, or as to any other Matter falling within the original Jurisdiction of the Court as a Court of 30 Equity, or made subject to the Jurisdiction or Authority of the Court by any Statute, not being One of the Statutes relating to Bankrupts, and including among such Persons all Lunatics, married Women, and Infants, in the Manner and under the Restrictions herein-after contained, to concur in stating such Question in the 35 Form of a Special Case for the Opinion of the said Court, and it shall also be lawful for all Executors, Administrators, and Trustees to concur in such Case.

How Lunatic may concur. 13 & 14 Vict. c. 35. s. 2.

112. The Committee of the Estate of any Lunatic interested or claiming to be interested in any such Question as aforesaid may, 40 after having been authorized in that Behalf by the Lord Chancellor, concur

concur in such Case in his own Name and in the Name and on the Behalf of the Lunatic.

113. A Husband interested or claiming to be interested in right of his Wife in any such Question as aforesaid may concur in such Case in his own Name and in the Name of his Wife where the Wife has no Claim to any Interest distinct from her Husband, and a married Woman having or claiming any Interest in any such Question as aforesaid distinct from her Husband may in her own Right concur in such Case, provided that her Husband also concurs therein.

How married Women may concur. 13 & 14 Vict. c. 35. s. 3.

114. The Guardian of any Infant interested or claiming to be interested in any such Question as aforesaid may concur in such Case in the Name and on the Behalf of the Infant, unless such Guardian has an Interest in such Question adverse to the Interest of the Infant therein.

How Infant may concur. 13 & 14 Vict. c. 35. s. 4.

115. It shall be lawful for the Court, by Order to be made in the Matter of any Lunatic not found such by Inquisition, or in the Matter of any Infant, upon the Application of any Person on the Behalf of such Lunatic, or upon the Application of such Infant, by Motion or Petition, to appoint any Person shown by Affidavit to be a fit Person, and to have no Interest adverse to the Interest of the Lunatic or Infant, to be the Special Guardian of such Lunatic or Infant for the Purpose of concurring in such Case, in the Name and on behalf of the Lunatic or Infant, and any such Person so appointed may lawfully so concur : Provided always, that it shall be lawful for the Court to require Notice of such Application to be given to such Person, if any, as the Court shall think fit.

How Special Guardian to be appointed for a Lunatic not found such by Commission and for Infant may concur. 13 & 14 Vict. c. 35. s. 5.

116. In any Case in which any such Order as aforesaid shall have been made by the Court in the Matter of any Infant without Notice to the Guardian of the Infant, it shall be lawful for the said Court, if it shall think fit so to do, to discharge such Order, upon the Application of such Guardian, by Motion or Petition ; and the Court, if it shall think fit, may thereupon appoint some other fit Person to be the Special Guardian of such Infant for the Purpose of such Special Case, and may also give such Directions as may be necessary for substituting in such Special Case either the Name of the Guardian so applying, or of the Special Guardian so appointed, in lieu of the Name of the Special Guardian so displaced : Provided always, that the Discharge of any Order appointing a Special Guardian shall not invalidate anything which shall in the

Order to appoint Special Guardian of an Infant may be discharged by Court, if made without Notice. 13 & 14 Vict. c. 35. s. 6.

meantime have been done by such Special Guardian, unless the Court shall, upon Notice to all Parties, specially so direct.

How such
Special
Cases to be
intituled.
13 & 14 Vict.
c. 35. s. 7.

117. Every such Special Case shall be intituled as a Cause between some or One of the Parties interested or claiming to be interested as Plaintiffs or Plaintiff, and the others or other of them as Defendants or Defendant; and in the Title to such Cases Lunatics and Infants shall be described as such, and their Committees, Guardians, or Special Guardians named; and where in any such Case a married Woman is named as a Plaintiff and her Husband as a Defendant thereto, a next Friend of such married Woman shall be named in the Title to such Case.

Form of
Special Case.
13 & 14 Vict.
c. 35. s. 8.

118. Every such Special Case shall concisely state such Facts and Documents as may be necessary to enable the Court to decide the Question raised thereby, and upon the Hearing of such Case the Court and the Parties shall be at liberty to refer to the whole Contents of such Documents, and the Court shall be at liberty to draw from the Facts and Documents stated in any such Special Case any Inference which the Court might have drawn therefrom if proved in a Cause.

Special Case
to state how
Guardian
constituted,
and the Con-
currence of
married
Woman.
13 & 14 Vict.
c. 35. s. 9.

119. Every such Special Case to which an Infant or a Lunatic is a Party by his Guardian or Special Guardian shall also state how such Guardian or Special Guardian was constituted; and where any married Woman having or claiming any Interest distinct from her Husband is a Party to such Case, it shall be stated therein that she concurs in such Case in her own Right.

Special Cases
to be signed
by Counsel
and filed,
and Appear-
ances to be
entered.
13 & 14 Vict.
c. 35. s. 10.

120. Every such Special Case shall be signed by Counsel for all Parties, and shall be filed in the same Manner as Bills are filed, and the Defendants may appear thereto in the same Manner as Defendants appear to Bills; and no Defendant shall be required to take an attested Copy of a Special Case, but an attested Copy thereof shall be taken by the Plaintiff.

After a
Special Case
filed, Parties
to be bound
by State-
ments after
Defendants
have ap-
peared, ex-
cept married
Women,
Infants, and
Lunatics,

121. After a Special Case shall have been filed, and the Defendants shall have appeared thereto, all the Parties to such Special Case shall be subject to the Jurisdiction of the Court, in the same Manner as if the Plaintiff in the Special Case had filed a Bill against the Parties named as Defendants thereto, and such Defendants had appeared to such Bill; and upon the Special Case being filed, and Appearances entered thereto as aforesaid, all Parties to such Special Case, other than married Women, Infants, and Lunatics, shall for the Purposes of such Special Case be bound by the State-ments

ments therein; and all married Women, Infants, and Lunatics made Parties to a Special Case shall for the Purposes of such Special Case be bound by the Statements therein, when and not before Leave shall have been given by the Court to set down such Special Case in manner herein-after provided.

who are not to be bound till Leave given by Court to set it down.
13 & 14 Vict. c. 35. s. 11.

122. So soon as all the Defendants shall have appeared to the Special Case the same may, subject to the Provisions herein-after contained, be set down for Hearing, and Subpœnas to hear Judgment issued and served according to the Practice of the said Court.

How Case to be set down for Hearing.
13 & 14 Vict. c. 35. s. 12.

123. When any married Woman, Infant, or Lunatic is Party to a Special Case, Application may be made to the Court for Leave to set down the same, of which Application Notice shall be given to every Party to such Case in whom, as Executor, Administrator, or Trustee, any Property in question therein is or is alleged to be vested in trust for or for the Benefit of such married Woman, Infant, or Lunatic, and also, if such Application be not made by or on behalf of such married Woman, Infant, or Lunatic, to such married Woman and her Husband, or to such Infant, or to such Lunatic and his Committee, if any, as the Case may be; and upon the Hearing of such Application the Court may give Leave to set down such Case, if it shall be of opinion that it is proper that the Question raised therein shall be determined thereon, and shall be satisfied by Affidavit or other sufficient Evidence that the Statements contained therein, so far as the same affect the Interest of such married Woman, Infant, or Lunatic, are true, but otherwise may refuse such Application: Provided always, that in case the Court, upon the Hearing of such Application, shall be of opinion that it is proper that the Question raised in such Case shall be determined thereon, but shall not be satisfied that the Statements contained therein, so far as they affect the Interest of such married Woman, Infant, or Lunatic, are true, it shall be lawful for the Court to direct such Inquiries as to the Court shall seem proper, and upon further Application being made to give or refuse Leave to set down such Case, as to the Court shall seem fit.

When a married Woman, Infant, or Lunatic is a Party, Application to be made to the Court for Leave to set the Case down.
13 & 14 Vict. c. 35. s. 13.

124. It shall be lawful for the Court, upon the Hearing of any such Special Case as aforesaid, to determine the Questions raised therein or any of them, and by Decree to declare its Opinion thereon, and, so far as the Case shall admit of the same, upon the Right involved therein, without proceeding to administer any Relief consequent upon such Declaration; and every such Declaration of the Court contained in any such Decree shall have the same Force

Upon Hearing, Court to determine Question and make Declaration.
13 & 14 Vict. c. 35. s. 14.

and Effect as such Declaration would have had, and shall be binding to the same Extent as such Declaration would have been, if contained in a Decree made in a Suit between the same Parties instituted by Bill: Provided always, that if upon the H  aring of such Special Case as aforesaid the Court shall be of opinion that the Questions raised thereby or any of them cannot properly be decided upon such Case, the Court may refuse to decide the same.

Proviso that Court may refuse to decide.

13 & 14 Vict. c. 35. s. 14.

Protection to be afforded to Trustees by Declaration.
13 & 14 Vict. c. 35. s. 15.

125. Every Executor, Administrator, Trustee, or other Person making any Payment or doing any Act in conformity with the Declaration contained in any Decree made upon a Special Case, shall in all respects be as fully and effectually protected and indemnified by such Declaration as if such Payment had been made or Act done under or in pursuance of the express Order of the said Court made in a Suit between the same Parties instituted by Bill, save only as to any Rights or Claims of any Person in respect of Matters not determined by such Declaration.

The Court may suspend the acting upon Declaration.
13 & 14 Vict. c. 35. s. 16.

126. Where any Person shall be desirous to appeal from the Decision on such Special Case, it shall be lawful for the Court, upon Application for that Purpose, either at the Time of the Decree upon such Special Case being made or at any Time afterwards, and upon such Conditions, if any, as the Court shall think fit, to order that the Declaration contained in such Decree shall not be acted upon for such Time as the Court shall think just.

Special Case to be a Lis pendens, and may be registered.
13 & 14 Vict. c. 35. s. 17.

127. The filing of a Special Case, and the entering of Appearances thereto by the Persons named as Defendants therein, shall be taken to be a Lis pendens, and may be registered under the Provisions of an Act made and passed in the Session of Parliament held in the Seventh and Eighth Years of the Reign of Her present Majesty, intituled "An Act for the Protection of Purchasers against Judgments, Crown Debts, Lis pendens, Commission of Bankruptcy, and for providing One Office for registering all Judgments in Ireland, and for amending the Laws in Ireland respecting Bankrupts and Limitations of Actions," in like Manner as any other Lis pendens in a Court of Equity may now be so registered, and, unless and until so registered, shall not bind a Purchaser or Mortgagee without express Notice thereof.

Mode of identifying Documents, and Court may Order Production.
13 & 14 Vict. c. 35. s. 18.

128. Any Documents referred to in a Special Case, and any Copies thereof or Extracts therefrom, identified by the Signature of the Solicitors for all Parties, or of the Town Agents of such Solicitors, may be produced and read at the Hearing of such Case, without

without further Proof; and it shall be lawful for the said Court at any Time after the filing of the Special Case, and the entering of Appearances thereto by the Persons named as Defendants therein, to order any Document which may be admitted thereby to be in the Possession of any Party to such Case to be deposited and produced in such Manner and for such Purposes as the Court shall think fit.

129. From and after the First Day of Michaelmas Term One thousand eight hundred and sixty-seven, it shall be lawful for the Master of the Rolls and the Vice-Chancellor for the Time being and they are hereby required to sit at Chambers for the Despatch of such Part of the Business of the Court as can, without Detriment to the public Advantage arising from the Discussion of Questions in open Court, be heard in Chambers, according to the Directions herein-after in that Behalf specified or referred to; and the Times at and during which they respectively shall so sit shall be from Time to Time fixed by them respectively.

130. The Chamber Business of the Master of the Rolls and of the Vice-Chancellor respectively shall be carried on in conjunction with his Court Business; and it shall be lawful for the Lord Chancellor to cause Chambers to be provided for each of them for that Purpose, until Courts, with proper Rooms attached, can be provided for them.

131. The Master of the Rolls and the Vice-Chancellor respectively, when sitting in Chambers, shall have the same Power and Jurisdiction in respect of the Business to be brought before them as if they were respectively sitting in open Court.

132. Orders made by the Master of the Rolls and the Vice-Chancellor respectively, when sitting in Chambers, shall ordinarily be drawn up and signed by their respective Chief Clerks.

133. All Orders of the Master of the Rolls or of the Vice-Chancellor, made at Chambers, shall have the Force and Effect of Orders of the Court of Chancery, and such Orders may be signed and enrolled in like Manner.

134. The Business to be disposed of by the Master of the Rolls and the Vice-Chancellor respectively while sitting at Chambers shall consist of such Matters as the Judge shall from Time to Time think may be more conveniently disposed of in Chambers than in open Court, or as may from Time to Time be directed by any General Order of the Court.

[180.]

E 4

135. It

Power to Master of the Rolls and Vice-Chancellors to sit at Chambers for the Despatch of Business, &c. 15 & 16 Vict. c. 80. s. 11.

Power to Lord Chancellor to provide Chambers for Master of the Rolls and Vice-Chancellor. 15 & 16 Vict. c. 80. s. 12.

Judges to have same Power and Jurisdiction as in open Court. 15 & 16 Vict. c. 80. s. 13.

Orders made at Chambers to be drawn up by Judges Clerks. 15 & 16 Vict. c. 80. s. 14.

Orders made at Chambers to have same Force as Orders of Court, &c. 15 & 16 Vict. c. 80. s. 15.

Business to be disposed of in Chambers by the Judges. 15 & 16 Vict. c. 80. s. 26.

Judges may adjourn from open Court to Chambers, and vice versa, the Consideration of any Matter.

15 & 16 Vict. c. 80. s. 27.

Mode of Proceeding before Judges at Chambers to be by Summons. 15 & 16 Vict. c. 80. s. 28.

Power to the Judges to direct what Matters, &c. shall be heard and investigated by themselves, and what by their Chief Clerks.

Right to Suitor to bring any Point before the Judge.

15 & 16 Vict. c. 80. s. 29.

Power to Chief Clerks to issue Advertisements and Summons, to administer Oaths, &c., as the Judge shall direct. 15 & 16 Vict. c. 80. s. 30.

Parties, &c. not attending liable to Process of Contempt and to Penalties for false

135. It shall be lawful for the Master of the Rolls and the Vice-Chancellor respectively when sitting in open Court to adjourn for Consideration in Chambers any Matter which, in the Opinion of such Judge, may be more conveniently disposed of in Chambers, or, when sitting in Chambers, to direct any Matter to be heard in open Court which he may think ought to be so heard. 5

136. The Mode of Proceeding before the Master of the Rolls and Vice-Chancellor respectively at Chambers shall be by Summons, and shall be regulated according to such Form and in such Manner as shall be prescribed by a General Order of the Court. 10

137. From and after the First Day of Michaelmas Term One thousand eight hundred and sixty-seven, the Master of the Rolls and the Vice-Chancellor respectively shall have the sole Power (subject to any General Orders to be made on the Subject) to order what Business not of a judicial Character shall be investigated by and before their respective Chief Clerks, either with or without their Direction, during their Progress, and particularly, if the Judge shall so direct, his Chief Clerk shall take Accounts and make such Inquiries as have usually been prosecuted before the Examiners of the present Masters; and the Judge shall give such Aid and Directions in every or any such Account or Inquiry as he may think proper, but subject nevertheless to the Right herein-after provided for the Suitor to bring any particular Point before the Judge himself. 15 20

138. Each Chief Clerk shall, for the Purpose of any Proceedings directed by the Master of the Rolls or the Vice-Chancellor to be taken before him, have full Power to issue Advertisements, to summon Parties and Witnesses, to administer Oaths, to take Affidavits and Acknowledgments, other than Acknowledgments by married Women, to receive Affirmations, and, when so directed by the Judge to whose Court he is attached, to examine Parties and Witnesses either upon Interrogatories or vivâ voce, as such Judge shall direct, but only as to Matters of Account or formal Matters, and not as to any controverted Questions of Fact upon which the Decision of the Judge shall be required. 25 30 35

139. Parties and Witnesses so summoned shall be bound to attend in pursuance of any such Summons, and shall be liable to Process of Contempt, in like Manner as Parties or Witnesses are now liable thereto in case of Disobedience to any Order of the Court, or in case of Default in Attendance, in pursuance of any Order of the Court, or of any Writ of Subpœna ad testificandum; and 40

and all Persons swearing or affirming before any such Chief Clerk shall be liable to all such Penalties, Punishments, and Consequences for any wilful or corrupt false swearing or affirming contained therein as if the Matters sworn or affirmed had been sworn and affirmed before any Person now by Law authorized to administer Oaths, to take Affidavits, and to receive Affirmations.

swearing,
&c.
15 & 16 Vict.
c. 80. s. 31.

140. The Directions to be given by the Master of the Rolls or the Vice-Chancellor for or touching any Proceedings before his Chief Clerk shall require no particular Form, but the Result of such Proceeding shall be stated in the Shape of a short Certificate to the Judge, and shall not be embodied in a formal Report, unless in any Case the Judge shall see fit so to direct; and when the Judge shall approve of such Certificate or Report he shall sign the same, in testimony of his adopting the same.

Result of
Proceedings
before Chief
Clerk to be
embodied in
Form of
short Cer-
tificate, &c.
15 & 16 Vict.
c. 80. s. 32.

141. No Exceptions shall lie to any Certificate or Report of the Chief Clerk, although signed and adopted by the Judge, but any Party shall, either during the Proceedings before such Chief Clerk, or within such Time after such Proceedings shall have been concluded, and before the Certificate or Report shall have been signed and adopted, as the Court shall by any General Order direct, be at liberty to take the Opinion of the Judge upon any particular Point or Matter arising in the course of the Proceedings, or upon the Result of the whole Proceeding when it is brought by the Chief Clerk to a Conclusion.

No Excep-
tions to lie
to Certifi-
cate, &c.
Parties at
liberty to
take Opinion
of Judge
upon any
particular
Point.
15 & 16 Vict.
c. 80. s. 33.

142. When any Certificate or Report of the Chief Clerk shall have been signed and adopted by the Judge, the same shall be filed in like Manner as Reports are now filed, and shall thenceforth be binding on all the Parties to the Proceedings, unless discharged or varied, either at Chamber or in open Court, according to the Nature of the Case, upon Application by Summons or Motion within such Time as shall be prescribed in that Behalf by any General Order of the Court; and nothing herein contained shall prejudice or affect the Power of the Court at any Time to open any such Certificate or Report, upon the same or the like Grounds as any Report of a Master of the said Court which has been absolutely confirmed may now be opened.

Certificate,
&c. signed
and adopted
by Judge
binding on
all Parties,
unless dis-
charged or
varied.
15 & 16 Vict.
c. 80. s. 34.

143. From and after the First Day of Michaelmas Term One thousand eight hundred and sixty-seven, all or any of the Powers, Authorities, and Jurisdiction given to the Masters in Ordinary of the said Court by any Act or Acts then in force may be exercised by the Master of the Rolls and the Vice-Chancellor respectively.

All Powers
possessed by
Masters to
be exercised
by Judges.
15 & 16 Vict.
c. 80. s. 36.

[180.]

F

144. From

Power to
Judges to
exercise the
Powers
given by
Sections 31.
to 38. inclu-
sive of this
Act, and to
dispose of
any Cause,
&c. in open
Court.

15 & 16 Vict.
c. 80. s. 37.

144. From and after the First Day of Michaelmas Term One thousand eight hundred and sixty-seven, the Powers given to the Masters in Ordinary of the said Court and to the Court by Sections 31, 32, 33, 34, 35, 36, 37, and 38, of this Act, may be exercised by the Master of the Rolls and Vice-Chancellor respectively with respect to Causes, Matters, and Things which may be depending before them respectively in Chambers; and if and when any such Judge shall be of opinion that any Cause, Matter, or Thing so depending ought to be finally disposed of, unless the Parties or some of them can show good Cause to the contrary, he shall direct the same to stand in his Paper in open Court, giving such Notice thereof, if any, as he shall deem right, and proceed to dispose thereof accordingly.

Court or
Judge, on
Application
of Executors
or Adminis-
trators, may
by Order
of Course
direct an
Account of
Debts and
Liabilities
to be taken.

13 & 14 Vict.
c. 35. s. 19.
23 & 24 Vict.
c. 38. s. 14.

145. And whereas it is expedient to provide Means for enabling Executors or Administrators of deceased Parties to ascertain whether there are any outstanding Debts or Liabilities affecting the Personal Estates of such Persons, without the Delay and Expense of Suits to administer such Estates: Be it therefore enacted, That upon the Application of the Executors or Administrators of any deceased Person at any Time after Probate or Letters of Administration shall have been granted, it shall be lawful for the Court or Judge, upon a Summons in the Form used for originating Proceedings at Chambers, by an Order in the Form or to the Effect set forth in the Schedule (B.) to this Act, with such Variations as Circumstances may require, to direct that an Account shall be taken of the Debts and Liabilities affecting the Personal Estate of such deceased Person; and after any such Order shall have been made the Court or Judge may, on the Application of the Executors or Administrators, restrain or suspend, until the Account directed by such Order shall have been taken, any Proceedings at Law against such Executors or Administrators by any Person having or claiming to have any Demand upon the Estate of the Deceased, upon such Terms and Conditions, if any, as to the Court or Judge shall seem just; and the Judge in taking an Account of the Debts and Liabilities pursuant to such Order shall, on the Application of the Executors or Administrators, be at liberty to direct that the Particulars only of any Claim or Claims which may be brought in pursuance of any such Order shall be certified by his Chief Clerk, without any Adjudication thereon; and any Notices for Creditors to come in which may be published in pursuance of any such Order shall have the same Force and Effect as if such Notices had been given by the Executors or Administrators in pursuance of the Twenty-ninth Section of the Act of the Twenty-second and Twenty-third Years of Victoria, Chapter Thirty-five: Provided always,

always, that no such Order shall be made pending any Proceedings to administer the Estate of such Person; and that in case at any Time after the making of such Order any Decree or Order for administering the Estate of such deceased Person shall be made, it
 5 shall be lawful for the said Court by such Decree or Order to stay or suspend the Proceedings under such Order of Course on such Terms and Conditions, if any, as to the said Court shall seem just.

146. It shall be lawful for any Person who may have come in under any such Order, and claim to be a Creditor upon the Estate
 10 of the deceased Person, or to have any Demand upon such Estate by reason of any Liability, and whose Debt or Claim may not have been wholly allowed by the Chief Clerk, to apply to the Court or Judge, in such Manner and within such Time as shall be provided by a General Order of the Court, to have such Claim allowed, either
 15 wholly or partially; and it shall be lawful for the said Executors or Administrators, and for any Creditor of the deceased Person who may be authorized by special Leave of the Court or Judge so to do, to apply to the Court or Judge to have any Debt or Claim allowed which has been disallowed by the Chief Clerk, either
 20 wholly or partially; but, save as to any Debt or Claim as to which any such Notice as aforesaid may have been given, the Certificate or Report of the Chief Clerk shall, upon the filing of the Certificate or Report, be absolute: Provided always, that upon the Hearing of any such Application as aforesaid the Court or Judge may either
 25 dismiss such Application, or may order the Debt or Claim to which such Application relates to be allowed or disallowed, as the Case may be, and either wholly or partially, or may direct further Inquiry or further Proceedings, by way of Action or otherwise, touching such Debt or Claim, and after such Inquiry or Proceedings
 30 may deal with such Debt or Claim as to the Court or Judge shall seem just.

Certificate of Chief Clerk may be objected to by Application to the Court or Judge, of which Notice shall be given.
 13 & 14 Vict. c. 35. s. 20.

Proceeding of the Court on such Motion.
 13 & 14 Vict. c. 35. s. 21.

147. In case any Debt or any certain Liability shall have been allowed as aforesaid, and shall not, within such Time as shall be prescribed by a General Order of the Court, be paid or provided for
 35 by Appropriation to the Satisfaction of the Person who has established such Liability, it shall be lawful for the Court or Judge, by Order, to be made in case of any Debt remaining due upon the Application of the Person to whom the Debt remains due, and on Notice to the Executors or Administrators, and in case of any
 40 certain Liability remaining unprovided for by Appropriation upon the Application of the Person by whom such Liability has been established, or of the Executors or Administrators, and on Notice by the Party applying to the other of them, to order Payment of the

If Debts or certain Liabilities allowed, and not paid or provided for Order may be made for Payment of Accounts.
 13 & 14 Vict. c. 35. s. 22.

Debts which may have been allowed and remain unpaid, and to provide for the certain Liabilities which may have been allowed and remain unprovided for, in like Manner as the same could or might have been paid or provided for in a Suit for that Purpose instituted by Bill, or to direct an Account to be taken of the Debts 5 and certain Liabilities allowed as aforesaid which remain unpaid or unprovided for, and also the usual Accounts of the Personal Estate of the deceased Person, with all usual and proper Directions; and every such Order shall have the same Force and Effect and shall be prosecuted and carried on in like Manner as a Decree in a Creditor's 10 Suit instituted by Bill.

Court or Judge, on Application of Executors or Administrators, may direct Appropriation of Money to answer contingent Liability.
13 & 14 Vict. c. 35. s. 23.

148. In case any contingent Liability shall be duly allowed as aforesaid, it shall be lawful for the Court or Judge, by Order, to be made upon the Application of the Executors or Administrators, on Notice to the Person who may have established such contingent 15 Liability, to order such Sum of Money, Part of the Estate of the deceased Person, as to the Court or Judge shall seem just, to be set apart and appropriated for answering such contingent Liability, and to give such Directions as the Court or Judge shall think fit touching the Payment of such Sum of Money into Court, and 20 the Investment thereof, and the Payment, Application, or Accumulation of the Interest or Dividends thereof in the meantime and until the same shall be required to answer such Liability, and when such Liability shall be ascertained or determined, to give such Directions as to the Payment of such Sum out of Court as the 25 Court or Judge shall deem right: Provided always, that no Order to be made as aforesaid shall in any Manner bind the Assets so appropriated as against the Persons entitled to the Estate of the Deceased, subject to the contingent Liability; and any Person interested in such appropriated Assets may apply to the Court touching the same 30 as he may be advised.

Court may restrain Proceedings against Executors or Administrators.
13 & 14 Vict. c. 35. s. 24.

149. That after the filing of such Certificate or Report as aforesaid it shall be lawful for the Court or Judge, upon the Application of the Executors or Administrators of the Deceased, by Order, to restrain by Injunction any Proceedings at Law against them by 35 any Person having or claiming to have any Demand upon the Estate of the Deceased by reason of any Debt or Liability, other than the Persons who may have established contingent Liabilities under the said Order for which no Appropriation may have been made.

40

Protection to be afforded to

150. In case no Debt or Liability, or no Debt or Liability other than a contingent Liability, shall have been allowed as aforesaid,

or

- or in case any Debt or Liability other than as aforesaid shall have been allowed as aforesaid, then after the same shall have been paid or provided for by Appropriation as aforesaid, all Payments made by the Executors or Administrators, or any of them, on account of the
- 5 Estate of the deceased Person, and all Dispositions of such Assets made by them or any of them on account of such Estate, shall, as against all Persons having or claiming to have any Demand upon such Estate by reason of any Debt or Liability, other than Persons who may have established under the said Order any contingent
- 10 Liability for which no such Appropriation as aforesaid may have been made, be as good and effectual as if the same had been made under a Decree of the Court: Provided always, that nothing herein contained shall in any Manner affect or prejudice the Rights of any Creditor or other Person having any Demand or Claim upon
- 15 the Estate of the Deceased against any Assets so paid or disposed of, or against the Persons to whom such Payment or Disposition may have been made, or against any Assets appropriated under the Provisions of this Act, and the Appropriation of which, if made under a Decree of the said Court in a Suit to which he was not a
- 20 Party, would not have been binding upon him.

Executors
and Admin-
istrators.
13 & 14 Vict.
c. 35. s. 25.

151. It shall be lawful for any Person claiming to be a Creditor, or a specific, pecuniary, or residuary Legatee, or the Next of Kin, or some or One of the Next of Kin of a deceased Person, to apply for and obtain as of course, without Bill filed or any other preliminary
- 25 Proceedings, a Summons from the Master of the Rolls or the Vice-Chancellor, requiring the Executor or Administrator, as the Case may be, of such deceased Person, to attend before him at Chambers, for the Purpose of showing Cause why an Order for the Administration of the Personal Estate of the Deceased should not be granted;
- 30 and upon Proof by Affidavit of the due Service of such Summons, or on the Appearance in Person or by his Solicitor or Counsel of such Executor or Administrator, and upon Proof by Affidavit of such other Matters, if any, as such Judge shall require, it shall be lawful for such Judge, if in his Discretion he shall think fit so to
- 35 do, to make the usual Order for the Administration of the Estate of the Deceased, with such Variations, if any, as the Circumstances of the Case may require; and the Order so made shall have the Force and Effect of a Decree to the like Effect made on the Hearing of a Cause between the same Parties; provided that such
- 40 Judge shall have full discretionary Power to grant or refuse such Order, or to give any special Directions touching the Carriage or Execution of such Order, and in the Case of Applications for any such Order by Two or more different Persons or Classes of Persons, to grant the same to such One or more of the Claimants, or of the

Creditor, &c.
may sum-
mon Execu-
tor, &c. to
show Cause
why an
Order for
Administra-
tion of Per-
sonal Estate
should not
be granted.
Power to
Judge to
order Admi-
nistration of
such Estate.
15 & 16 Vict.
c. 86. s. 45.

Classes of Claimants, as he may think fit; and if the Judge shall think proper the Carriage of the Order may subsequently be given to such Party interested, and upon such Terms as the Judge may direct.

Copy of
Summons to
be filed in
the Office of
the Deputy
Keeper of
the Rolls.
15 & 16 Vict.
c. 86. s. 46.

152. A Duplicate or Copy of such Summons shall, previously 5
to the Service thereof, be filed in the Office of the Deputy Keeper
of the Rolls; and no Service thereof upon any Executor or Admi-
nistrator shall be of any Validity unless the Copy so served shall be
stamped with a Stamp of such Office indicating the filing thereof;
and such Summons may be registered under the Provisions of 10
the Act mentioned in the 128th Section of this present Act;
and the filing and Registration of such Summons shall have the
same Effect with respect to *Lis pendens* as the filing and Regis-
tration of a Bill.

Creditor, &c.
may obtain
an Order for
Administra-
tion of Real
Estate.
15 & 16 Vict.
c. 86. s. 47.

153. It shall be lawful for any Person claiming to be a Creditor 15
of any deceased Person, or interested under his Will, to apply for
and obtain in a summary Way, in the Manner herein-before pro-
vided with respect to the Personal Estate of a deceased Person, an
Order for the Administration of the Real Estate of a deceased
Person where the whole of the Real Estate so sought to be adminis- 20
tered is by Devise vested in Trustees who are by the Will em-
powered to sell such Real Estate, and authorized to give Receipts
for the Rents and Profits thereof, and for the Produce of the Sale
of such Real Estate, or where the Real Estate of such Person is
otherwise liable to be sold for Payment of the Demand of the 25
Person so applying; and all the Provisions herein-before contained
with respect to the Application for such Order at the Suit of a
Creditor in relation to the Personal Estate of a deceased Person,
and consequent thereon, shall extend and be applicable to an Appli-
cation for such Order as last herein-before mentioned with respect 30
to Real Estate; and such Application and Proceeding may be com-
bined with an Application and Proceeding for the Administration
of the Personal Estate of the same Person where it is necessary or
proper that such Real and Personal Estate shall be administered 35
together.

Suit not to
be dismissed
for Mis-
joinder of
Plaintiffs,
but Court
may modify
its Decree
according to
special Cir-
cumstances.
15 & 16 Vict.
c. 86. s. 49.

154. No Suit in the Court commenced by Bill shall be dis-
missed by reason only of the Misjoinder of Persons as Plaintiffs
therein; but whenever it shall appear to the Court, that, notwith-
standing the Conflict of Interest in the Co-plaintiffs, or the Want
of Interest in some of the Plaintiffs, or the Existence of some Ground 40
of Defence affecting some or One of the Plaintiffs, the Plaintiffs, or
some or One of them, are or is entitled to Relief, the Court shall
have

have Power to grant such Relief, and to modify its Decree, according to the special Circumstances of the Case, and for that Purpose to direct such Amendments, if any, as may be necessary, and at the Hearing, before such Amendments are made, to treat any One
 5 or more of the Plaintiffs as if he or they was or were a Defendant or Defendants in the Suit, and the remaining or other Plaintiff or Plaintiffs was or were only Plaintiff or Plaintiffs on the Record; and where there is a Misjoinder of Plaintiffs, and the Plaintiff having an Interest shall have died, leaving a Plaintiff on
 10 the Record without an Interest, the Court may, at the Hearing of the Cause, order the Cause to stand revived as may appear just, and proceed to a Decision of the Cause, if it shall see fit, and to give such Directions as to Costs or otherwise as may appear just and expedient.

15 **155.** No Suit in the Court shall be open to Objection on the Ground that a merely declaratory Decree or Order is sought thereby, and it shall be lawful for the Court to make binding Declarations of Right without granting consequential Relief.

No Suit to be objected to because only declaratory Order sought.

15 & 16 Vict. c. 86. s. 50.

156. It shall be lawful for the Court to adjudicate on Questions
 20 arising between Parties, notwithstanding that they may be some only of the Parties interested in the Property respecting which the Question may have arisen, or that the Property in question is comprised with other Property in the same Settlement, Will, or other Instrument, without making the other Parties interested in the
 25 Property respecting which the Question may have arisen, or interested under the same Settlement, Will, or other Instrument, Parties to the Suit, and without requiring the whole Trusts and Purposes of the Settlement, Will, or other Instrument to be executed under the Direction of the Court, and without taking the
 30 Accounts of the Trustees or other accounting Parties, or ascertaining the Particulars or Amount of the Property touching which the Question or Questions may have arisen: Provided always, that if the Court shall be of opinion that the Application is fraudulent or collusive, or for some other Reason ought not to be entertained,
 35 it shall have Power to refuse to make the Order prayed.

Court may decide between some of the Parties without making others interested Parties to the Suit.

Proviso.

15 & 16 Vict. c. 86. s. 51.

157. Upon any Suit in the said Court commenced by Bill becoming abated by Death, Marriage, or otherwise, or defective by reason of some Change or Transmission of Interest or Liability, it shall not be necessary to exhibit any Bill of Revivor or Supplemental Bill in order to obtain the usual Order to revive such Suit,
 40 or the usual or necessary Decree or Order to carry on the Proceedings; but an Order to the effect of the usual Order to revive or of

In case of Abatement, &c. of Suit, an Order may be made, which shall have the same Effect as a Bill of Revivor.

15 & 16 Vict. c. 86. s. 52.

the usual Supplemental Decree may be obtained as of course upon an Allegation of the Abatement of such Suit, or of the same having become defective, and of the Change or Transmission of Interest or Liability; and an Order so obtained, when served upon the Party or Parties who according to the present Practice of the Court 5 would be Defendant or Defendants to the Bill of Revivor or Supplemental Bill, shall from the Time of such Service be binding on such Party or Parties in the same Manner in every respect as if such Order had been regularly obtained according to the existing Practice of the said Court; and such Party or Parties shall thenceforth 10 become a Party or Parties to the Suit, and shall be bound to enter an Appearance thereto in the Office of the Clerk of Appearances and Writs within such Time and in like Manner as if he or they had been duly served with Process to appear to a Bill of Revivor or Supplemental Bill filed against him: Provided that it shall be open 15 to the Party or Parties so served, within such Time after Service as shall be in that Behalf prescribed by any General Order of the Court, to apply to the Court by Motion or Petition to discharge such Order on any Ground which would have been open to him on a Bill of Revivor or Supplemental Bill, stating the previous Pro- 20 ceedings in the Suit, and the alleged Change or Transmission of Interest or Liability, and praying the usual Relief consequent thereon: Provided also, that if any Party so served shall be under any Disability other than Coverture, such Order shall be of no Force or Effect as against such Party until a Guardian or Guardians ad 25 litem shall have been duly appointed for such Party, and such Time shall have elapsed thereafter as shall be prescribed by any General Order of the Court in that Behalf.

New Facts,
&c. after
Commence-
ment of Suit
to be intro-
duced as
Amend-
ments to
Bill, &c.
15 & 16 Vict.
c. 86. s. 53.

158. It shall not be necessary to exhibit any Supplemental Bill 30 in the Court for the Purpose only of stating or putting in issue Facts or Circumstances which may have occurred after the Institution of any Suit, but such Facts or Circumstances may be introduced by way of Amendment into the original Bill of Complaint in the Suit if the Cause is otherwise in such a State as to allow of an 35 Amendment being made in the Bill, and if not the Plaintiff shall be at liberty to state such Facts or Circumstances on the Record, in such Manner and subject to such Rules and Regulations with respect to the Proof thereof, and the affording the Defendant Leave and Opportunity of answering and meeting the same, as shall in that 40 Behalf be prescribed by any General Order of the Court.

Where
Account
required to
be taken,
Court may

159. It shall be lawful for the Court in any Case where any Account is required to be taken to give such special Directions, if any, as it may think fit, with respect to the Mode in which the Account

- Account should be taken or vouched, and such special Directions may be given either by the Decree or Order directing such Account, or by any subsequent Order or Orders, upon its appearing to the Court that the Circumstances of the Case are such as to require
 5 such special Directions; and particularly it shall be lawful for the Court, in Cases where it shall think fit so to do, to direct that in taking the Account the Books of Account in which the Accounts required to be taken have been kept, or any of them, shall be taken as *primâ facie* Evidence of the Truth of the Matters therein con-
 10 tained, with Liberty to the Parties interested to take such Objections thereto as they may be advised.

give special Directions as to the Mode of taking same.

15 & 16 Vict. c. 86. s. 54.

- 160.** Where any Real or Personal Property shall form the Subject of any Proceedings in the Court of Chancery, and the Court shall be satisfied that the same will be more than sufficient to answer all the
 15 Claims thereon which ought to be provided for in such Suit, it shall be lawful for the said Court, at any Time after the Commencement of such Proceedings, to allow to the Parties interested therein, or any One or more of them, the whole or Part of the annual Income of such Real Property, or a Part of such Personal Property, or a Part
 20 or the whole of the Income thereof, up to such Time as the said Court shall direct, and for that Purpose to make such Orders as may appear to the said Court necessary or expedient.

Where Real or Personal Property is the Subject of Proceedings, Court may allow to Parties Part or the whole of the annual Income.

15 & 16 Vict. c. 86. s. 57.

- 161.** Upon Application by Motion or Petition to the Court in any Suit depending therein for an Injunction or a Receiver, or to
 25 dissolve an Injunction, or discharge an Order appointing a Receiver, the Answer of the Defendant shall, for the Purpose of Evidence on such Motion or Petition, be regarded merely as an Affidavit of the Defendant, and Affidavits may be received and read in opposition thereto.

Answer of Defendant on Motion for Injunction, or Receiver, &c. to be regarded as an Affidavit.

15 & 16 Vict. c. 86. s. 59.

- 162.** It shall be lawful for the Court, in such Way as they may think fit, to obtain the Assistance of Accountants, Merchants, Engineers, Actuaries, or other scientific Persons, the better to enable such Court to determine any Matter at issue in any Cause or Proceeding, and to act upon the Certificate of such Persons.

Power to obtain the Assistance of Accountants, Merchants, &c.

15 & 16 Vict. c. 80. s. 42.

- 163.** The Allowances in respect of Fees to such Accountants, Merchants, Engineers, Actuaries, and other scientific Persons shall be regulated by the Taxing Master of the Court, subject to an Appeal to the Court to which the Cause or Matter shall be attached, whose Decision shall be final.

Taxing Master to regulate Fees to Accountants, &c., subject to Appeal.

15 & 16 Vict. c. 80. s. 48.

In case
Directions as
to Practice,
&c. not fol-
lowed, Court
may make
Order and
award Costs.
15 & 16 Vict.
c. 86. s. 60.

164. In case any of the Directions herein contained with respect to the Practice and Course of Proceeding in the Court shall by Mistake of Parties fail to be followed in any Suit, it shall be lawful for the said Court, if it shall think fit, upon Payment of such Costs as such Court shall direct, to make such Order giving effect to and 5 rectifying such Proceedings as may be justified by the Merits of the Case.

Costs may be
taxed, not-
withstand-
ing the Death
of Person to
whom they
are awarded.

165. When by any Decree or Order Costs shall be ordered to be paid to any Person, and the Person to whom such Costs shall be ordered to be paid shall die before such Costs shall have been 10 taxed or the Amount thereof ascertained, such Costs may be taxed and ascertained by the Taxing Master, notwithstanding the Death of such Person, on the Application of his personal Representative.

Costs may be
taxed not-
withstand-
ing Death of
Person by
whom they
are payable.

166. When by any Decree or Order Costs shall be ordered to be paid by any Person, and in consequence of the Death of such Person 15 such Costs cannot, according to the existing Law or Practice, be taxed or ascertained, it shall be lawful for the Court, on the Application of the Person entitled to such Costs, to direct the Taxing Master to tax and ascertain the same, upon Service of a Summons upon the personal Representative of the Person by whom such 20 Costs have been ordered to be paid, or such Person as the Court shall appoint to represent the Estate of such deceased Person.

Summons to
tax to be
served in
ordinary
Way.

167. Summonses to tax Costs, pursuant to the Two last preceding Sections of this Act, shall be served in like Manner as ordinary 25 Summonses issued by the Taxing Master, or in such Manner as the Taxing Master shall by any Writing to be signed by him direct.

Taxing
Master may
proceed ex
parte.

168. The Taxing Master may proceed ex parte with such Taxa- tion, in case the Person served with such Summons shall not, by himself or his Solicitor, attend pursuant thereto.

Taxed Costs
may be
recovered.

169. All Costs taxed and ascertained under the Provisions of 30 this Act may be recovered in like Manner as if the same had been taxed and ascertained in the Lifetime of the Person to whom or by whom the same shall have been awarded to be paid, or of the Person in consequence of whose Death the same could not, according to the existing Law or Practice, have been taxed or 35 ascertained, any Law or Practice to the contrary notwithstanding.

Court of
Chancery
may sum-

170. That on and after the First Day of Michaelmas Term One thousand eight hundred and sixty-seven, it shall be lawful for the said Court of Chancery, upon the Application of any Party

Party interested, by Motion or Petition in a summary Way, without Bill filed, to restrain the Governor and Company of the Bank of Ireland, or any other public Company in Ireland, whether incorporated or not, from permitting the Transfer of any Stock in
 5 the Public Funds or any Stock or Shares in any public Company which may be standing in the Name or Names of any Person or Persons or Body Politic or Corporate in the Books of the Governor and Company of the Bank of Ireland or in the Books of any such public Company, or from paying any Dividend or Dividends due or
 10 to become due thereon: Every Order of the said Court of Chancery upon such Motion or Petition as aforesaid shall specify the Amount of the Stock or the particular Shares to be affected thereby, and the Name or Names of the Person or Persons, Body Politic or Corporate, in which the same shall be standing: Provided always,
 15 that the said Court of Chancery shall have full Power, upon the Application of any Party interested, to discharge or vary such Order and to award such Costs, upon such Application, as to the said Court shall seem fit.

marily re-
strain the
Bank of
Ireland, &c.
from per-
mitting
Transfer of
Stock, &c.
5 Vict. c. 5
s. 4.

171. On and after the First Day of Michaelmas Term One
 20 thousand eight hundred and sixty-seven, it shall be lawful for any Person claiming any Interest in any Government Stock transferable at the Bank of Ireland, standing in the Name or Names of any Person or Persons, or Body Politic or Corporate, in the Books of the Governor and Company of the Bank of Ireland,
 25 to sue out of the Office of the Clerk of Appearances and Writs a statutory Writ of Injunction, in the Form set forth in the Schedule (B.) to this Act, to restrain the Bank from permitting the Transfer of the said Stock or the Payment of the Dividends thereof, and the same shall be served upon the Secretary of the Bank within Four
 30 Days after the issuing of the same, or else the same shall be void, and Notice of the suing out and Service of such Writ shall be given by the Person suing out the same immediately after the Service thereof to the Person or Persons or the proper Officer of the Corporation in whose Name or Names the said Stock shall be
 35 standing.

Persons
claiming
Government
Stock stand-
ing in the
Name of
another may
sue out Writ
of Injunction
to restrain
the Transfer.
5 Vict. c. 5.
s. 5.

172. From and after the Service of the said Writ as herein-
 before provided it shall not be lawful for the said Governor and
 Company to permit the said Stock to be transferred or to pay the
 Dividends thereof until the said Writ shall have been discharged or
 40 shall have lapsed as herein-after provided.

After Ser-
vice of Writ
Bank not to
permit
Transfers or
Payment of
Dividends.

173. It shall be lawful for the Person, Persons, or Corporation
 in whose Name or Names the said Stock shall be standing, or any
 [180.] G 2 other

Application
to Court to
discharge
such Writs.

other Person interested therein or in the Dividends thereof to apply to the Court in a summary Way to discharge the said Writ, which the Court shall have Power to do and to award such Costs upon such Application as to the Court shall seem fit, and the said Writ may be discharged by an Order for that Purpose made in 5 any Suit or other Proceeding, if the Court shall think fit.

Persons interested in Stock may, notwithstanding such Writ, request Transfer to be made; whereupon Bank to notify such Request to Parties by whom Writ sued out.

174. The Person or Persons or Corporation in whose Name or Names the said Stock shall be standing, or the Executors or Administrators of such Person or Persons, may by himself or themselves, or some Person on their or his Behalf, in Writing, 10 request the said Governor and Company to permit the said Stock to be transferred or pay the said Dividends, notwithstanding such Writ, and the said Governor and Company shall thereupon notify in Writing to the Person who has sued out such Writ that such Request has been made, and unless such Person shall within Eight Days 15 after such Notification obtain and serve upon the said Governor and Company a Writ of Injunction, issued by Order of the Court upon Motion or Petition in some Suit or Matter then pending, the said statutory Writ shall at the Expiration of the said Eight Days be deemed to have lapsed, and the said Governor and Company 20 may thereupon permit the said Stock to be transferred and the said Dividends to be paid as if the same had not been issued.

Pending Suits to be prosecuted according to present Practice.

175. Notwithstanding anything herein-before contained, all Suits which on the First Day of Michaelmas Term One thousand eight hundred and sixty-seven shall be pending in the said Court, and 25 all Suits commenced before the last-mentioned Day, which shall after that Day be continued or prosecuted in the Court, shall be so conducted, continued, or prosecuted in the same Manner and according to the same Practice as if this Act had not passed: Provided always, that it shall be lawful for the Lord Chancellor, 30 by an Order to be made upon Motion or Petition in any particular Suit, to direct that the whole or any Part of the further Proceedings in such Suit shall thenceforth be continued, carried on, and prosecuted according to the Practice in force for the Conduct of Suits commenced after the First Day of Michaelmas Term One thousand 35 eight hundred and sixty-seven.

Lord Chancellor and Judges to make General Rules and Orders for carrying Purposes of this Act into effect.

176. The Lord Chancellor, with the Advice and Assistance of the Master of the Rolls, the Lord Justice of the Court of Appeal in Chancery, and the Vice-Chancellor, or any Two of them, may and they are hereby required from Time to Time to make General 40 Rules and Orders for carrying the Purposes of this Act into effect, and for regulating the Times and Forms and Course of Procedure, and

and the Mode of taking Evidence in Suits, and generally the Practice of the said Court in respect of the Matters to which this Act relates, and for regulating the Fees and Allowances to the Solicitors of the said Court in respect to such Matters, and the
 5 Costs of any Proceedings under or in pursuance of this Act, including the fixing of a higher and lower Scale of Costs, Fees, and Allowances according to the Nature of such Proceedings, and the Amount involved, and for altering if necessary the Course of Proceeding herein-before prescribed in respect to the Matters to
 10 which this Act relates, or any of them; and such Rules and Orders may from Time to Time be rescinded or altered by the like Authority; and all such Rules and Orders shall be and take effect as General Orders of the said Court: Provided always, that in making such General Orders regard shall be had to establishing and pre-
 15 serving, so far as may be, Uniformity of Practice and Procedure in the Courts of Chancery in England and Ireland.

177. All such General Orders as aforesaid shall immediately after the making and issuing thereof be laid before both Houses of Parliament, if Parliament be then sitting, or if Parliament
 20 be not then sitting within Five Days after the next Meeting thereof: Provided always, that if either of the Houses of Parliament shall, by any Resolution passed within Thirty-six Days after such General Orders have been laid before such Houses of Parliament, resolve that the whole or any Part of such General
 25 Orders ought not to continue in force, in such Case the whole, or such Part thereof as shall be so included in such Resolution, shall from and after such Resolution cease to be binding.

Such General Rules and Orders to be laid before Parliament.

PART IV.

Fees and Stamps.

30 178. Whereas the Alterations in the Practice and Course of Procedure in the said Court will affect the Duties at present levied in respect of Proceedings in the said Court under the Name of Chancery Fund Duties, and in pursuance of the Provisions of an Act passed in the Fourth Year of the Reign of His late Majesty
 35 King George the Fourth, intituled "An Act to grant additional " Stamp Duties on certain Proceedings in the Court of Chancery " and in the Equity Side of the Court of Exchequer in Ireland," and it is essential that Power should be given to the Court, with the Consent of the Lords Commissioners of Her Majesty's Treasury,
 40 to modify such Duties, so as to adapt the same to the Practice and Course of Procedure to be introduced pursuant to this Act: Be it enacted, That it shall be lawful for the Court, by any General Orders

PART IV.

Fees and Stamps.

Power to the Court, with the Assent of the Lords Commissioners of Her Majesty's Treasury, to allow the Chancery Fund Duties payable under

4 G. 4. c. 78.

to be made as by this Act directed, and with the Consent of the Lords Commissioners of Her Majesty's Treasury, to vary, reduce, or abolish all or any of the Chancery Fund Duties now payable in relation to Proceedings in the said Court, and to substitute One or more Duty or Duties in lieu thereof, and to regulate the Fees to be 5 paid in all the Offices of the said Court, and the Court shall have full Power by any such General Orders, with like Consent, from Time to Time to vary, reduce, or abolish any such Duties or Fees as aforesaid, anything in any Act or Acts relating to such Duties or Fees to the contrary notwithstanding. 10

Fees now payable in respect of Proceedings in Court, and accounted for to the Treasury, to be added to the Chancery Fund Duties.

179. From and after the First Day of Michaelmas Term One thousand eight hundred and sixty-seven the Fees now payable in relation to Proceedings in the Court of Chancery in Ireland, and which are received in Money, and accounted for to Her Majesty's Treasury, shall be no longer received in Money, but shall be 15 added to "The Chancery Fund" Duties at present payable in respect of such Proceedings, and such Fees shall be subject to be varied, reduced, or abolished in the Manner heretofore provided in respect of such Chancery Fund Duties; and all the Provisions at present in force in relation to the Collection and accounting for the 20 said Chancery Fund Duties shall apply to the Collection and accounting for the said Fees.

Fees which are now accounted for to Suitors Fee Fund to be henceforth received by Stamps.

180. From and after the First Day of Michaelmas Term One thousand eight hundred and sixty-seven the Fees in relation to Proceedings in the said Court now received in Money, and which 25 are accounted for with the Accountant General of the Court of Chancery in Ireland, for the Credit of the Account called the Suitors Fee Fund Account, shall no longer be received in Money, but by a Stamp denoting the Amount of the Fee which otherwise would be payable, and to be called "Chancery Fee Fund Stamp;" 30 and where any Fee shall be payable in respect of any Document, such Stamp shall, at the Expense of the Party liable to pay the Fee, and in such Manner and under such Regulations as shall by any General Order or Orders be directed, be stamped or affixed on the Vellum, Parchment, or Paper on which the Proceeding in respect 35 whereof such Fee is payable is written, printed, or engrossed, or which may be otherwise used in reference to such Proceedings; and all Sums received in respect of such Chancery Fee Fund Stamps shall be collected and paid over in manner herein-after provided.

No Officer hereafter to receive Fees for his own Use, but all

181. From and after the First Day of Michaelmas Term One 40 thousand eight hundred and sixty-seven no Officer of the Court of Chancery shall be entitled to receive and retain for his own Use any

any Fee or Reward whatsoever; and all Officers of the Court of Chancery and of the Judges thereof now entitled to receive and retain any Fees or other Payments for their own Use which by virtue of this Act they will cease so to receive after the First Day of Michaelmas Term One thousand eight hundred and sixty-seven shall while they continue to hold their respective Offices receive, in lieu of all Fees or other Payments whatsoever now received by or paid or payable to them for their own Use, such Salary as, having regard to the Emoluments heretofore received by them and to the Nature and Tenure of such Offices, the Lord Chancellor and the Lords Commissioners of Her Majesty's Treasury shall think just; and every such Officer shall in respect of the Salaries so fixed be in the same Position as regards his Superannuation Allowance as if such Fees continued to be payable; and upon the present Holders of such Offices respectively ceasing to hold the same the Lord Chancellor, with the Assent of the Lords Commissioners of Her Majesty's Treasury, shall fix the Salaries to be thereafter received in respect thereof with reference to the Nature and Duties of such Offices respectively.

Officers to be paid by Salary.

182. It shall be lawful for all Officers of the Court of Chancery and of the Judges thereof, heretofore entitled to receive any Fees or Emoluments for their own Use, and for their Successors in their respective Offices, and their several and respective Clerks or Agents, to continue to receive and take all and every the Fees and Emoluments which have been accustomed to be paid to them until the Lord Chancellor shall by any Order or Orders otherwise direct; and all such Fees shall no longer be received in Money, but by such Stamps as are herein provided, and all Sums received in respect of such Stamps shall be accounted for as herein provided; and the Salaries of such Officers shall thenceforth be payable out of such Monies as shall be provided by Parliament for that Purpose.

Officers to continue to receive Fees until Lord Chancellor shall otherwise direct, and pay them into the Suitors Fee Fund.

183. It shall be lawful for the Court by any General Orders to be made as by this Act directed, and with the Consent of the Lords Commissioners of Her Majesty's Treasury, to vary, reduce, or abolish all or any of the Chancery Fund Duties, Chancery Fee Fund Stamps, into which such Fees as aforesaid may be commuted under this Act, and to substitute One or more Fee or Fees, Stamp or Stamps, in lieu thereof, and to direct that all or any of such Fees or Stamps shall from a Day to be named in such Orders and thenceforth be collected.

Power to vary Fees.

184. The Commissioners of Inland Revenue shall from Time to Time give the necessary Directions for carrying the Provisions of the

The Commissioners of Inland

Revenue to carry General Orders relating to Fees and Stamps into effect.

15 & 16 Vict. c. 87. s. 8.

the Act and of every General Order of the Court made in pursuance thereof into effect; and shall provide everything that shall be necessary for that Purpose, and shall do or cause to be done everything that shall be necessary for the Receipt and Collection of the Money to be paid for such Stamps; and the said Commissioners shall cause 5
separate and distinct Accounts to be kept of all Sums of Money received or collected by them for such Chancery Fee Fund Stamps, and the Money so received shall, under the Direction of the Commissioners of Her Majesty's Treasury, be carried into and shall form Part of the Consolidated Fund. 10

Commissioners of Inland Revenue may make Regulations as to Allowance for spoiled Stamps.

15 & 16 Vict. c. 87. s. 10.

185. It shall be lawful for the Commissioners of Inland Revenue from Time to Time to make such Regulations as they shall think fit for the Allowance of such Stamps issued under the Provisions of this Act as may have been spoiled or rendered useless or unfit for the Purpose intended, or for which the Owner may have no immediate 15
Use, or which, through Mistake or Inadvertence, may have been improperly or unnecessarily used; and such Allowance shall be made either by giving other Stamps in lieu of the Stamps so allowed, or by repaying the Amount or Value to the Owner or Holder thereof, after deducting the Discount or Poundage, if any, allowed on the 20
Sale of Stamps of the like Kind.

Commissioners to have Powers in 5 & 6 Vict. c. 82. 15 & 16 Vict. s. 11.

186. For the Purpose of raising, levying, and collecting the Stamps and other Duties made payable by this Act, the Commissioners of Inland Revenue shall have and be vested with all the Powers and Authorities of the said Act of the Fifth and Sixth 25
Victoria, Chapter Eighty-two, and the Acts therein recited or referred to; and the several Provisions of the said Acts (so far as the same are not inconsistent with this Act) shall be applicable to the Stamps and other Duties to be collected and raised under this Act, and shall be applied and put in execution for collecting and securing the Sums of Money denoted thereby, and for preventing, detecting, 30
and punishing all Frauds, Forgeries, and other Offences relative thereto, as fully and effectually to all Intents and Purposes as if such Provisions had been herein repeated and specially enacted with reference to the said last-mentioned Stamps and Sums of Money respectively. 35

No Document to be received or used unless stamped.

187. No Document which by any such General Orders as aforesaid shall be required to have a Stamp impressed thereon or affixed thereto shall be received or filed, or be used in relation to any Proceeding in the Court of Chancery, or be of any Validity for any Purpose whatsoever, unless or until the same shall have a Stamp 40
impressed thereon or affixed thereto, in the Manner directed by such Order :

Order : Provided always, that if at any Time it shall appear that any such Document which ought to have had a Stamp impressed thereon or affixed thereto has through Mistake or Inadvertence been received or filed or used without having such Stamp impressed
 5 thereon or affixed thereto, it shall be lawful for the Lord Chancellor, if he think fit, to order that such Stamp shall be impressed thereon or affixed thereto ; and thereupon, when a Stamp shall have been impressed on such Document or affixed thereto, in compliance with any such Order, such Document, and every Proceeding in reference
 10 thereto, shall be as valid and effectual as if such Stamp had been impressed thereon or affixed thereto in the first instance.

188. If any Officer of the Court of Chancery or other Person shall do or commit or connive at any fraudulent Act or Practice in relation to any Stamp to be used under the Provisions of this Act,
 15 or to any Fee or Sum of Money to be collected or which ought to be collected by means of any such Stamp, or if any such Officer or Person shall be guilty of any wilful Act, Neglect, or Omission in relation to any such Stamp or Fee as aforesaid, whereby any Fee or Sum of Money which ought to be collected shall be lost or the Pay-
 20 ment thereof evaded, every such Officer or Person so offending shall be dismissed from his Office or Employment, if the Lord Chancellor shall think fit so to order.

Officers guilty of Fraud or wilful Neglect in relation to Stamps liable to be dismissed.

189. When any of the Fees now payable shall be reduced as aforesaid, the Provisions of all Acts and General Orders relating to
 25 the original Fees, save where inconsistent with this Act or the General Orders, shall apply to such reduced Fees.

Acts and General Orders shall apply to reduced Fees.

190. Nothing in this Act contained shall apply to the Stamp Duties or Fees payable in the Bankrupt Court, or to abolish the Stamp Duties or Fees relating to Commissions of Bankruptcy.

Act not to extend to Fees in Bankruptcy.

30

PART V.

Miscellaneous.

191. Except as herein otherwise provided, all Salaries and Compensation under this Act shall grow due from Day to Day ; and if any Person holding any of the said Offices shall die, resign, or be
 35 removed from the same, or if any Person entitled to such Allowance shall die, the Executor or Administrator of the Person so dying, or
 [180.] H the

PART V.

Miscellaneous.

Salaries to be payable out of Monies to be provided by Parliament.

the Person so resigning or being removed, shall be entitled to receive a proportionable Part of his Salary for the Time that such Person shall have lived or executed his Office since the last Payment ; and all Salaries, Pensions, Compensations, and Superannuations, whether already granted or to be granted, and all other Expenses 5 in the Court of Chancery (other than the Salaries and Pensions of the Lord Chancellor, the Lord Justice of Appeal, the Master of the Rolls, the Vice-Chancellor, and the Masters), shall be paid out of Monies to be voted by Parliament for that Purpose ; and the Amount of all Fees (other than Fees received by Officers for their own 10 Benefit, until the Lord Chancellor shall otherwise direct), as well as the Income of all Suitors Fee or other Funds, shall be accounted for and paid into the Exchequer in such Manner as the Lords Commissioners of Her Majesty's Treasury may direct.

Dividends of Funds which have not been dealt with for Ten Years may be transferred to the Suitors Fee Fund Account.
16 & 17 Vict. c. 98. s. 1.

192. On the First Day of October next after the passing of this 15 Act, and on the same Day in each succeeding Year, an Investigation shall be made into the several Accounts standing in the Name of the said Accountant General to the Credit of any Cause or Matter the Dividends of which shall not have been dealt with for Ten Years or upwards prior to such Time, otherwise than by the Invest- 20 ment of Dividends, and the Lord Chancellor, if and when he shall be of opinion that it is not probable that any Claim will be made for the same, may make Orders for the Investment of the Cash on any such Accounts and for the Appropriation of the future Dividends to accrue due on the Stock for the Time being on any such Accounts, 25 or such Part of such Dividends as he shall be of opinion may safely and properly be so appropriated by carrying the same over to the Credit of the Account in the Books of the Accountant General called the "Suitors Fee Fund Account ;" and such Dividends, when so carried over, shall thereupon become Part of the Fund standing 30 to such Account.

Rights of Suitors to Stock or Dividends transferred not to be affected, but to be satisfied out of the Suitors Fee Fund.
16 & 17 Vict. c. 98. s. 2.

193. The Right of any Suitor of the said Court to the Stock the Dividends of which shall be appropriated by any such Order or Orders as aforesaid, or to the Dividends so directed to be appropriated, shall not be in anywise prejudiced or affected by such Order 35 or Orders, or by such Appropriation in pursuance thereof as aforesaid, but the Claims of such Suitor or Suitors shall be made good and satisfied out of the Fund standing to the Credit of the Accounts called the Suitors Fee Fund Account and the Suitors Unclaimed Dividend Account, or either of them, by virtue of any Order or 40 Orders to be from Time to Time made by the said Court for that Purpose.

194. It

194. It shall be lawful for the Party or Parties in any Suit who shall be ordered to invest any Money in the Purchase of the Stocks, Funds, or Annuities transferable at the Bank of Ireland, or to transfer for Sale or otherwise any of the said Stocks, Funds, or Annuities, to employ any One of the licensed Stock Brokers, being a Member of the Stock Exchange in Dublin, to make such Investment and Transfer.

Power to Parties ordered to invest in Transfer Stock, to employ any licensed Stock Broker.

195. This Act shall commence and take effect from and after the First Day of Michaelmas Term One thousand eight hundred and sixty-seven, save as to Part I. and Clause 176, which shall commence and take effect from the First of August One thousand eight hundred and sixty-seven, provided that such General Orders as aforesaid shall not be made to take effect before the First Day of Michaelmas Term, One thousand eight hundred and sixty-seven.

Commencement of the Act.

SCHEDULES.

SCHEDULE (A.) REFERRED TO BY THE FOREGOING ACT.

13 & 14 Victoria, c. 89. ss. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13,
14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31,
32.

5

23 & 24 Victoria, c. 38. s. 14.

SCHEDULE (B.) REFERRED TO BY THE FOREGOING ACT.

Form of Endorsement on Bill of Complaint.

Victoria R.

To the within-named Defendant, *C.D.*, greeting :

10

We command you [*"and every of you," where there is more than
One Defendant*], that within Eight Days after Service hereof on
you, exclusive of the Day of such Service, you cause an Appearance
to be entered for you in Our High Court of Chancery to the within
Bill of Complaint of the within-named *A.B.*, and that you observe 15
what Our said Court shall direct. Witness Ourselves at Dublin,
the Day of in the
Year of Our Reign.

NOTE.—If you fail to comply with the above Directions you will
be liable to be arrested and imprisoned.

20

Appearances are to be entered at the Office of the Clerk of
Appearances and Writs, Four Courts, Dublin.

Form of Replication.

Between *A.B.*,

Plaintiff,

and

25

C.D., *E.F.*, *G.H.*, &c.,

Defendants.

The Plaintiff in this Cause hereby joins Issue with the Defendant
[*all the Defendants who have answered, or who have not been
required to answer and have not answered the Bill*], and will hear
the Cause upon Bill and Answer against the Defendant *E.F.* [*all* 30
*the Defendants against whom the Cause is to be heard on Bill and
Answer*], and on Order to take the Bill as confessed against the
Defendant *G.H.* [*as the Case may be*].

Form

[Date.]

Banker [or as the Case may be], deceased.

5 Upon the Application of *C.D.*, the Executor of the Will, *or*
Administrator of the Effects of the above-named *C.D.*, and reading
the Probate of the said Will or Letters of Administration of the
Effects of the said *A.B.*, granted on the Day of ,
to the said *C.D.*, and an Affidavit of the said *C.D.* that no Pro-
ceedings are pending to administer the Estate of the said *A.B.*,
10 this Court doth order that an Account be taken of the Debts and
Liabilities affecting the Personal Estate of the said *A.B.* : And in
taking such Account Debts are to be distinguished from Liabilities,
and Liabilities certain from Liabilities contingent ; and the Personal
15 Estate of the said *A.B.* is to be applied in Payment and Satisfaction
of such Debts and Liabilities of the said *A.B.* in a due Course of
Administration ; and any of the Parties are to be at liberty to apply
to the Court as there shall be Occasion.

20

Victoria, &c.

To the Governor and Company of the Bank of Ireland.

We command you, that after the Service of this Writ on you you do not permit the Sum of [*insert Amount and Description of* 25 *Stock*], now standing in your Books in the Name of [*here state Person or Persons in whose Name or Names the Stock is standing*], to be transferred, or the Dividend that is now due or to accrue due thereon to be paid, until you shall be served with an Order of Our Court of Chancery in Ireland to the contrary, or until this Writ 30 shall be discharged by an Order of Our said Court, to be made in any Cause or Matter, or until the Lapse of Eight clear Days after a written Request by the said [*the Person or Persons in whose Name or Names the Stock is standing*], his Executors, Administrators, or Assigns, or some Person on their or his Behalf, to permit such 35 Transfer to be made or Payment received.

Court of Chancery (Ireland).

A

B I L L

[AS AMENDED IN COMMITTEE]

To amend the Constitution, Practice, and
Procedure of the Court of Chancery in
Ireland.

*(Prepared and brought in by
Mr. Solicitor General for Ireland and Mr. Attorney
General for Ireland.)*

*Ordered, by The House of Commons, to be Printed,
3 June 1867.*

[Bill 180.]

Under 9 oz.



A

B I L L

INTITULED

An Act to facilitate the Transaction of Business in the Chambers of the Judges of the High Court of Chancery, and in the Offices of the Registrars and Accountant General of the said Court.

[Note.—*The Words and Clauses printed in Red Ink are proposed to be inserted in Committee.*]

WHEREAS an Act was passed in the Session of Parliament held in the Third and Fourth Years of Her Majesty, Chapter Ninety-four, intituled “An Act for facilitating the Administration of Justice in the Court of Chancery:”

Preamble.

3 & 4 Vict.
c. 94.

5 And whereas a Second Act was passed in the Session of Parliament held in the Fifteenth and Sixteenth Years of Her Majesty, Chapter Eighty, intituled “An Act to abolish the Office of Master in Ordinary of the High Court of Chancery, and to make Provision for the more speedy and efficient Despatch of Business in the said Court:”

15 & 16 Vict.
c. 80.

10 And whereas a Third Act was passed in the Session of Parliament held in the Eighteenth and Nineteenth Years of Her Majesty, Chapter One hundred and thirty-four, intituled “An Act to make further Provision for the more speedy and efficient Despatch of Business in the High Court of Chancery, and to vest in the Lord

18 & 19 Vict.
c. 134.

[Bill 235.]

A

“Chancellor

“ Chancellor the Ground and Buildings of the said Court, situate in
 “ Southampton Buildings, Chancery Lane, with Powers of Leasing
 “ and Sale thereof :”

23 & 24 Vict.
 c. 149.

And whereas a Fourth Act was passed in the Session of Parlia-
 ment held in the Twenty-third and Twenty-fourth Years of Her
 Majesty, Chapter One hundred and forty-nine, intituled “ An Act
 “ to make better Provision for the Relief of Prisoners in contempt
 “ of the High Court of Chancery, and Pauper Defendants, and for
 “ the more efficient Despatch of Business in the said Court :”

27 & 28 Vict.
 c. 15.

And whereas a Fifth Act was passed in the Session of Parlia-
 ment held in the Twenty-seventh and Twenty-eighth Years of Her
 Majesty, Chapter Fifteen, intituled “ An Act for making better and
 “ further Provision for the more efficient Despatch of Business in
 “ the High Court of Chancery :”

And whereas the Number of Chief Clerks and Junior Clerks
 now authorized to be appointed to be attached to the Courts of
 the Master of the Rolls and the Vice-Chancellors respectively has
 been found insufficient for the due Despatch of the Business
 transacted by the said Judges when sitting at Chambers, and the
 Services of Assistant Clerks are required :

And whereas by an Order of the Court of Chancery, dated the
 Twenty-sixth Day of January One thousand eight hundred and
 sixty-five, made under the first-recited Act, it was ordered that there
 should be a temporary Junior Clerk in the Chambers of the Vice-
 Chancellor Sir John Stuart during such Time as the Lord Chan-
 cellor should think fit, and by an Order of the Court dated the
 Seventh Day of November One thousand eight hundred and sixty-
 six, made under the same Act, the yearly Salary of Two hundred
 and fifty Pounds was ordered to be paid to William Arthur Mar-
 shall as such temporary Junior Clerk :

And whereas by another Order of the Court dated the Third
 Day of November One thousand eight hundred and sixty-six,
 made under the Provisions of the first-recited Act, Mr. Henry
 Francis Church was appointed temporary Chief Clerk in the
 Chambers of the Vice-Chancellor Sir John Stuart, until a permanent
 Chief Clerk should be appointed by Authority of Parliament, and
 Mr. William Wright and Mr. Jonathan Pinnington were respec-
 tively appointed Junier Clerks in the same Chambers for the Period
 aforesaid :

And whereas by another Order of the Court dated the Twenty-
 seventh day of November One thousand eight hundred and sixty-six,
 made under the same Act, it was ordered that there should be
 paid to the said Mr. Henry Francis Church as such temporary
 Chief Clerk, and to his Successors, the yearly Salary of One thou-
 sand

sand two hundred Pounds, and to the said Mr. William Wright and Mr. Jonathan Pinnington, as Junior Clerks to such Chief Clerk, the yearly salary of Four hundred Pounds each :

And whereas by another Order of the Court dated the Sixteenth Day of January One thousand eight hundred and sixty-seven, Mr. Samuel John Bakewell was appointed additional Junior Clerk in the Chambers of the Master of the Rolls, and by another Order of the Court dated the Thirty-first Day of the same Month the yearly Salary of Four hundred Pounds was ordered to be paid to him as such additional Junior Clerk :

And whereas by divers Orders of the Court made under the first-recited Act Assistant Clerks, at Salaries not exceeding One hundred and fifty Pounds each, have been from Time to Time appointed in the Chambers of the Master of the Rolls and each of the Vice-Chancellors :

And whereas Doubts may be entertained whether the recited Orders, or some of them, were authorized by the first-recited Act, and whether the Junior Clerks appointed by or pursuant to the Power contained in the fifthly-recited Act can hold Office longer than during the Continuance in Office of the Chief Clerk appointed by the same Act, and in consequence of the Increase of administrative Business of the Court of Chancery it is expedient that Powers should be given for enabling the Appointment of additional Chief Clerks, Junior Clerks, and Assistant Clerks, to be attached to the Courts of the Master of the Rolls and Vice-Chancellors respectively, as the State of the Business in such Courts respectively may from Time to Time require, and that certain Appointments already made should be confirmed or made permanent; and it is also expedient that Power should be given for enabling the Appointment of an additional Registrar of the Court, and that Power should be given to alter the Salaries of Officers of the Court :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

1. It shall be lawful for the Lord Chancellor, with the Advice and Consent of the Master of the Rolls and Vice-Chancellors or any Three of them, from Time to Time to order such additional Chief Clerks and Junior Clerks as he shall think fit to be attached to the Courts of the Master of the Rolls and Vice-Chancellors respectively, and thereupon the Master of the Rolls or the Vice-Chancellor as the Case may be to whose Court any additional Chief Clerk or Junior Clerk shall be ordered to be attached shall appoint a fit Person to be such Chief Clerk or Junior Clerk as the Case may be ;

Power to appoint additional Chief Clerks and Junior Clerks.

provided that every Appointment of a Chief Clerk shall be made with the Approbation of the Lord Chancellor as required by the secondly-recited Act, and that no Person shall be appointed a Chief Clerk unless he shall be duly qualified in manner provided by the same Act: Provided also, that upon the Occurrence of any Vacancy 5 in the Office of Chief Clerk or Junior Clerk attached to the Court of the Master of the Rolls, or of any Vice-Chancellor, then unless by such Vacancy the Number of Chief Clerks attached to such Court shall be reduced below Two, or the Number of Junior Clerks attached to such Court shall be reduced below Four, no Appoint- 10 ment shall be made to supply the Vacancy, unless the Lord Chancellor, with the Advice and Consent of the Master of the Rolls and Vice-Chancellors, or any Three of them, shall by Order declare that it is necessary to supply the Vacancy.

The second-
ly, thirdly,
and fourthly
recited Acts
to apply to
Chief Clerks
and Junior
Clerks so
appointed.

2. All the Provisions of the secondly, thirdly, and fourthly 15 recited Acts which relate to Chief Clerks and Junior Clerks appointed under the same Acts or any of them, and to the Salaries to be paid to such Chief Clerks and Junior Clerks, and to the Funds out of which such Salaries are to be paid, shall extend and be applicable and are by this Act made applicable to the Chief Clerks 20 and Junior Clerks appointed under this Act, in the same Manner in all respects as if such last-mentioned Chief Clerks and Junior Clerks had been authorized to be appointed and had been appointed under the secondly-recited Act.

The first-
recited Act
extended to
authorize
the Appoint-
ment of
Assistant
Clerks.

3. The Provisions of the first-recited Act with respect to the 25 Appointment and also with respect to the Payment of the Salaries of additional Officers, Clerks, and Messengers in any of the Offices of the Court of Chancery shall extend to and shall authorize the Appointment and the Payment of Salaries of Assistant Clerks to be attached to the Courts of the Master of the Rolls and Vice-Chan- 30 cellors respectively.

Certain Ap-
pointments
of Chief
Clerks and
Junior
Clerks con-
firmed and
made perma-
nent.

4. The Appointment made pursuant to the recited Order of the Twenty-sixth Day of January One thousand eight hundred and sixty-five, and the Appointments made by the recited Orders of the Third Day of November One thousand eight hundred and sixty-six 35 and the Sixteenth Day of January One thousand eight hundred and sixty-seven, and the Salaries ordered to be paid by the recited Orders of the Seventh Day of November One thousand eight hundred and sixty-six, and the Twenty-seventh Day of the same Month, and the Thirty-first Day of January One thousand eight 40 hundred and sixty-seven, shall be and the same are respectively hereby confirmed, and shall respectively be considered as permanent Appointments

Appointments duly made and as Salaries duly ordered to be paid under the Provisions of this Act; and the Appointments made of Junior Clerks by or pursuant to the Power contained in the fifthly-recited Act shall be and the same Appointments are hereby declared
5. to be permanent and not determinable with the Continuance in Office of the Chief Clerk appointed by the same Act.

5. All Orders of the Court of Chancery made previously to the passing of this Act, appointing or ordering the Payment of the Salaries of Assistant Clerks in the Chambers of the Master of the Rolls or any of the Vice-Chancellors, shall be and the same
10 several Orders are hereby confirmed, and shall respectively be considered as Orders duly made under the Provisions of the first-recited Act as extended by this Act.

Appointment of Assistant Clerks already made confirmed.

6. Every Assistant Clerk whose Appointment is confirmed by
15 or shall be made under this Act shall hold his Office at the Pleasure of the Judge to whose Court he is attached, and shall be under the Control of such Judge, and shall attend at such Places, during such Times, and for such Hours in each Day, and perform such Duties as such Judge shall from Time to Time direct.

Assistant Clerks to hold Office during Pleasure, and obey Directions of Judge.

7. The Lord Chancellor may from Time to Time transfer any Clerk from any one Judge to any other Judge of the Court; provided that every such Transfer be made with the Advice and Consent both of the Judge from whom and of the Judge to whom
20 such Transfer shall be made.

Power to Lord Chancellor to transfer Clerk from one Judge to another.

8. It shall be lawful for the Lord Chancellor (when it shall appear necessary), by Writing under his Hand, to appoint One additional Registrar of the Court of Chancery, and from Time to Time to fill up any Vacancy in such Office; and the Person to be appointed such additional Registrar shall be the Senior of the
25 Clerks to the Registrars of the Court for the Time being, to whom no sufficient Objection to the Satisfaction of the Lord Chancellor shall be made; and such additional Registrar shall rank next after the Junior of the Registrars for the Time being, appointed under the Act passed in the Session of Parliament held in the Fifth Year
30 of the Reign of Her present Majesty, Chapter Five, and the Act passed in the Session of Parliament held in the Fourteenth and Fifteenth Years of the Reign of Her said Majesty, Chapter Eighty-three, and shall personally do and perform all the Duties and have and enjoy all the Rights and Privileges belonging to the Office of
35 Registrar, and shall be subject to the several Provisions and Penalties contained in the Act of the Fifth Year of Her Majesty, Chapter

Power to the Lord Chancellor to appoint One additional Registrar.

Five, relating to the Registrars of the Court, and be entitled, in case of permanent Infirmity, or after Continuance in Office for Forty Years, to the like Annuity as if he had been appointed Registrar in and by the same Act: Provided always, that the Acceptance of the Office of additional Registrar by the Senior Clerk for 5 the Time being shall be without Prejudice to all his Rights of Succession to the Office of Registrar under the Two Acts last mentioned.

CLAUSE A.
As to the
Payment of
the Salary
of such
additional
Registrar.

Out of the Fund standing in the Name of the Accountant General of the Court of Chancery to the Account entitled "The 10 Suitors Fee Fund Account," or the other Funds charged with and made liable for the Payment of the Salaries of the present Registrars, there shall be paid to the additional Registrar appointed under the last preceding Section, from the Date of his Appointment, the Salary or net yearly Sum of One thousand two hundred and 15 fifty Pounds, and also, so long as he shall be liable for the Expenses of writing and copying the Decrees and Orders and the Minutes of the Decrees and Orders of the Court, the yearly Sum of One hundred Pounds, on the Days and in the Manner provided by the Act of the Fifth Year of Her Majesty, Chapter Five, as varied by the 20 Act of the Session held in the Fifteenth and Sixteenth Years of Her Majesty, Chapter Eighty-seven, with respect to the Payment of the Salaries of the present Registrars.

CLAUSE B.
Power to
the Lord
Chancellor
to alter
Salaries
and Style
of Officers.

It shall be lawful for the Lord Chancellor, with the Consent of the Commissioners of Her Majesty's Treasury, as to all the 25 Officers of the Court of Chancery or of any Judge thereof, save as next herein-after mentioned, and for the Master of the Rolls, with the like Consent, as to all the Officers of the Court whose Salaries are or may be fixed by him under any Act of Parliament, from Time to Time to increase or diminish the Amount, or vary the 30 Mode or Terms of Increase, or Manner of Payment, of the Salary (whether fixed or made payable by Act of Parliament or not) of any Officer of the Court of Chancery, or of any Officer of any of the Judges of the said Court, and also, with the Consent of the Judges of the said Court, to vary the Style and Designation of the Officers 35 of the said Judges now termed "Ushers:" Provided nevertheless, that the Salary, whether immediate or in prospect, to which any Officer may at the Time of the passing of this Act or at any Time afterwards be or become entitled in right of his Office, shall not, after his Appointment to fill such Office, be diminished without his 40 Consent in Writing, nor if the Office be One the Appointment to which is vested in any Judge of the said Court other than the Lord Chancellor without the Consent of such Judge.

The

CLAUSE C.
Provisions of
15 & 16 Vict.
c. 87. to
apply.

The Provisions of the Act passed in the Session of Parliament held in the Fifteenth and Sixteenth Years of Her Majesty, Chapter Eighty-seven, shall apply to the Officers of the Judges of the Court of Chancery in the same Manner as if they were Officers of the said Court: Provided that on the Death or Retirement from Office of any Judge, any Officer of his who shall have served as a Judge's Officer for Fifteen Years shall be entitled to the Benefit of the Provisions of the last-mentioned Act.

9. And whereas all Notes or Cheques for Payment of Money drawn by the Accountant General of the Court of Chancery upon the Bank of England have been heretofore countersigned by the Registrars of the Court or by the Master of Reports and Entries, pursuant to the Act passed in the Session of Parliament held in the Twelfth Year of the Reign of King George the First, Chapter Thirty-two, and the Act passed in the Session held in the Fifteenth and Sixteenth Years of the Reign of Her Majesty, Chapter Eighty-seven: And whereas it is considered that such countersigning may with Safety be discontinued, and Provision in lieu thereof made as herein-after mentioned: Be it therefore enacted as follows:

10 From and after the First Day of October One thousand eight hundred and sixty-seven, the Countersignature by the Registrar of the Court of Chancery and by the Master of Reports and Entries of Notes or Cheques for Payment of Money drawn by the Accountant General of the Court on the Bank of England shall be discontinued; and from and after the same Date every Note or Cheque for the Payment of Money which shall be signed by the Accountant General of the Court, and countersigned by any One of the Clerks of the Accountant General who shall from Time to Time be entrusted by him with the Duty of delivering Notes or Cheques to the Parties entitled thereto (the Names and Signatures of the Clerks so entrusted to be from Time to Time made known to the Bank of England by the Accountant General), shall be sufficient Authority to the Bank of England to pay the Money mentioned in any such Note or Cheque to the Person or Persons named therein, or to such Person as he, she, or they by Indorsement shall order to receive the same: Provided always, that a Countersignature shall not be necessary to any Note or Cheque for Payment of Money to the Chancery Broker as the Consideration for the Purchase of any Stocks or Securities, but the Signature thereto of the Accountant General alone shall be sufficient Authority to the Bank of England to pay the Money mentioned therein.

Cheques drawn by the Accountant General to be countersigned by One of his Clerks instead of by the Registrars.

24 & 25 Vict.
c. 98. as to
Forgery of
Accountant
General's
Cheque to
apply.

10. The Provisions contained in the Act passed in the Session held in the Twenty-fourth and Twenty-fifth Years of the Reign of Her Majesty, Chapter Ninety-eight, for the Consolidation of the Law as to Forgery, which have Reference to the forging or altering of any Instrument made or purporting to be made by the Accountant General of the Court of Chancery, shall apply to all Notes or Cheques countersigned or purporting to be countersigned as provided by the last preceding Section, and to the Forgery or Alteration of any Countersignature thereto. 5

Meaning of
Expression
"Lord Chan-
cellor."

11. In the Construction of this Act the Expression "Lord Chancellor" shall mean and include the Lord High Chancellor of Great Britain and the Lord Keeper or Lords Commissioners of the Great Seal of the United Kingdom for the Time being. 10

Short Title.

12. This Act may be cited as "The Court of Chancery (Officers) Act, 1867." 15

Court of Chancery,
(Officers). [H.L.]

A

B I L L

INTITLED

An Act to facilitate the Transaction of Business in the Chambers of the Judges of the High Court of Chancery, and in the Offices of the Registrars and Accountant General of the said Court.

(Brought from the Lords 5 July 1867.)

Ordered, by The House of Commons, to be Printed,

8 July 1867.

[Bill 235.]

Under 1 oz.

Courts of Law Fees, &c.

ARRANGEMENT OF CLAUSES.

Clause

1. Amendment of Common Law Fees Account.
2. Court of Probate Fees Account.
3. Court of Admiralty Fees Account.
4. Office of Land Registry Fees Account.
5. Accounts to show Surplus and Deficit, and Comparison for Two Years.
6. Accounts to be laid before Houses of Parliament.
7. First Year of Account.
8. Provision for Deficit.
9. Application of Surplus on Accounts.
10. Alteration of Fees with Approval of Treasury.
11. Provision for Court of Bankruptcy, &c.
12. Salaries of Judges' Marshals.
13. Short Title.

SCHEDULES.



A

B I L L

FOR

The Application of surplus Fees paid by Suitors
in the Superior Courts of Law and other Courts
towards the Expenses of providing the intended
Courts of Justice ; and for other Purposes.

BE it enacted by the Queen's most Excellent Majesty, by and
with the Advice and Consent of the Lords Spiritual and
Temporal, and Commons, in this present Parliament assem-
bled, and by the Authority of the same, as follows :

- 5 1. With respect to the Superior Courts of Common Law,—there shall be omitted from the Account prescribed by Section Seven of The Common Law Courts (Fees and Salaries) Act, 1866, the following Items :—
- 10 1. Payments for Compensation in respect of the Offices de-
scribed in the First Schedule to this Act :
2. Receipts and Payments in respect of the Crown Office of the Court of Queen's Bench :
3. Receipts and Payments in respect of Fees, Salaries, and Expenses of the Clerks of Assize.
- 15 2. With respect to the Court of Probate,—there shall be annually prepared, under the Direction of the Commissioners of Her Majesty's [Bill 287.]
- Amendment
of Common
Law Fees
Account.
29 & 30 Vict.
c. 101. s. 7.

Court of
Probate
Fees Ac-
count.
- A 2
- Treasury,

20 & 21 Vict. c. 77. Treasury, an Account for the Year ending the Thirty-first Day of March, showing—

1. The Amount received in respect of Fees under the Act described in the Second Schedule to this Act :
2. The Payments for the Salaries of the Registrars, District 5 Registrars, Clerks, and others holding Offices in the Court of Probate, either in London or in the Country Districts, and for the incidental Expenses relating to those Offices, and for Superannuations, Pensions, and Retiring Allowances of Officers, and Compensations under the same Act. 10

Court of Admiralty Fees Account. 3 & 4 Vict. c. 66. 17 & 18 Vict. c. 78.

3. With respect to the High Court of Admiralty,—there shall be annually prepared, under the Direction of the Commissioners of Her Majesty's Treasury, an Account for the Year ending the Thirty-first Day of March, showing—

1. The Amount received in respect of Fees under the Acts de- 15 scribed in the Third Schedule to this Act :
2. The Payments for the Salaries of the Officers of the Court and for Pensions, Compensations, and other Charges and Payments in respect of the Court payable out of Money provided by Parliament. 20

Office of Land Registry Fees Account. 25 & 26 Vict. c. 53.

4. With respect to the Office of Land Registry,—there shall be annually prepared, under the Direction of the Commissioners of Her Majesty's Treasury, an Account for the Year ending the Thirty-first Day of March, showing—

1. The Amount received in respect of Fees under the Act 25 described in the Fourth Schedule to this Act :
2. The Payments for Salaries, Retiring Pensions, Superannuation Allowances, and other Charges payable under that Act out of Money provided by Parliament.

Accounts to show Surplus and Deficit, and Comparison for Two Years.

5. Each of the Four Accounts aforesaid shall show the Deficit or 30 Surplus of Receipts as compared with Expenditure, and the Second of the several yearly Accounts and every subsequent Account shall show the Items for Two consecutive Years, and the Increase or Decrease of any Item in the Second of those Years as compared with the First. 35

Accounts to be laid before Houses of Parliament.

6. Every Account prepared under this Act shall be laid before both Houses of Parliament within One Month after the *Thirty-first Day of March* in each Year if Parliament is then sitting, or if not, then within One Month after the next meeting of Parliament.

First Year of Account.

7. This Act shall be deemed to have been in force with respect 40 to the Year ending the *Thirty-first Day of March* One thousand eight

eight hundred and sixty-seven, and accordingly the Four several Accounts aforesaid shall be prepared for that Year.

8. If in any Year there is a Deficit on any of the Four Accounts aforesaid, the Amount of such Deficit shall be debited to the same
 5 Account in the next following Year; provided, that no such Deficit shall be debited to any Account unless and until there has been in some Year a Surplus on the same Account, and after there has been such a Surplus the Deficit (if any) of every subsequent Year shall be so debited, but not that of any Year previous to that in which
 10 there first was a Surplus.

Provision
for Deficit
on Accounts.

9. If in any Year there is a Surplus on any of the Four Accounts aforesaid (any Deficit having been first duly debited as aforesaid to that Account), the Commissioners of Her Majesty's Treasury shall issue the Amount of such Surplus out of the Consolidated Fund
 15 of the United Kingdom, or the growing Produce thereof, to Her Majesty's Paymaster General, to be carried to the Credit of an Account to be opened in his Books, to be called The Courts of Justice Advances Redemption Account; and the Amount standing to the Credit of that Account or any Part thereof may be from Time to
 20 Time invested and accumulated under the Direction of the Lord Chancellor and the Commissioners of Her Majesty's Treasury, and the same and the Accumulations thereof shall be applied, at such Periods and in such Manner as the Lord Chancellor and the Commissioners of Her Majesty's Treasury from Time to Time
 25 determine, towards discharging the Redemption Annuity to become payable under Section Nine of The Courts of Justice Building Act, 1865, and Section Two of The Courts of Justice Act, 1866.

Surplus on
Accounts to
be provided
out of Con-
solidated
Fund; and
Application
thereof.

28 & 29 Vict.
c. 48.
29 & 30 Vict.
c. 63.

There shall be annually prepared, under the Direction of the Commissioners of Her Majesty's Treasury, and laid before both Houses
 30 of Parliament, a Statement of the Receipts, Investments, and Expenditure on the last-mentioned Account.

10. Any Alteration in the Amount of Fees or Payments required by this Act to be credited to any of the Four Accounts aforesaid shall be subject to the Approval of the Commissioners of Her
 35 Majesty's Treasury.

Alteration
of Fees
with Ap-
proval of
Treasury.

11. If at any Time Provision is made by Parliament for Payment into the Receipt of Her Majesty's Exchequer of Money received in respect of Fees in the Court of Bankruptcy, or in any Court or Office prescribed under Section Three of The Courts of Justice
 40 Concentration (Site) Act, 1865, the Provisions of this Act shall extend and apply, mutatis mutandis, to the Court of Bankruptcy, or to such other Court or Office, as the Case requires.

Provision
for Court of
Bankruptcy,
&c.
28 & 29 Vict.
c. 49.

Salaries of
Judges'
Marshals.

12. Section Seven of the Act described in the Fifth Schedule to this Act shall be read and have Effect as if the Words "to the Marshal of the Senior Judge" were omitted therefrom.

Short Title.

13. This Act may be cited as The Courts of Justice (Finance) Act, 1867.

SCHEDULES.

The FIRST SCHEDULE.

- Office of Comptroller of Seals, Queen's Bench and Common Pleas.
Office of Custos Brevium, Common Pleas.
5 Office of Hereditary Chief Proclamator and Chief Usher, Exchequer.
-

The SECOND SCHEDULE.

- 20 & 21 Vict. c. 77.—An Act to amend the Law relating to Probates and Letters of Administration in England.
-

The THIRD SCHEDULE.

- 10 3 & 4 Vict. c. 66.—An Act to make Provision for the Judge, Registrar, and Marshal of the High Court of Admiralty of England.
17 & 18 Vict. c. 78.—An Act to appoint Persons to administer Oaths, and to substitute Stamps in lieu of Fees, and for other Purposes, in the High Court of Admiralty of England.
-

15 The FOURTH SCHEDULE.

- 25 & 26 Vict. c. 53.—An Act to facilitate the Proof of Title to, and the Conveyance of, Real Estates.
-

The FIFTH SCHEDULE.

- 15 & 16 Vict. c. 73.—An Act to make Provision for a permanent Establish-
20 ment of Officers to perform the Duties at Nisi Prius in the Superior Courts of Common Law, and for the Payment of such Officers and of the Judges' Clerks by Salaries, and to abolish certain Offices in those Courts.

Courts of Law Fees, &c.

A

BILL

For the Application of surplus Fees paid
by Suitors in the Superior Courts of
Law and other Courts towards the
Expenses of providing the intended
Courts of Justice; and for other
Purposes.

*(Prepared and brought in by
Mr. Dodson, Mr. Hunt, and
Mr. Attorney-General).*

*Ordered, by The House of Commons, to be Printed,
26 July 1867.*

[Bill 287.]

Under 1 oz.



A

B I L L

TO

Alter and regulate the Official Establishment of
the High Court of Chancery and of the Superior
Courts of Common Law in Ireland.

WHEREAS it is expedient to alter and regulate the Official Preamble.
Establishments of the High Court of Chancery and of
the Superior Courts of Common Law in Ireland :

Be it therefore enacted by the Queen's most Excellent Majesty,
5 by and with the Advice and Consent of the Lords Spiritual and
Temporal, and Commons, in this present Parliament assembled,
and by the Authority of the same, as follows :

1. This Act may be cited for all Purposes as "The Chancery and Short Title.
Common Law Offices (Ireland) Act, 1867."

10 2. This Act shall commence and have effect on the *First Day of* Commence-
October One thousand eight hundred and sixty-seven. ment of
Act.

3. This Act shall consist of Two Parts, relating to—

Part I.—Offices of the High Court of Chancery in Ireland.

Part II.—Offices of the Superior Courts of Common Law in
Ireland.

15

[Bill 145.]

A

PART

PART I.

OFFICES OF THE HIGH COURT OF CHANCERY IN IRELAND.

5 & 6 Vict.
c. 103. s. 1.

4. From and after the *Commencement of this Act* the following Offices of the High Court of Chancery in Ireland, namely, the Offices of Clerk and Assistant Clerk of Affidavits, of Clerk and 5 Assistant Clerk of Appearances and Writs, of Deputy Keeper of the Rolls, of Clerk of Enrolments, and of Clerk and Assistant Clerk of Pleadings in the Department of the Deputy Keeper of the Rolls, of Clerk of Recognizances, and of Clerk and Assistant Clerk of the Record Department in the Office of the Registrar, and of 10 the Cash Clerk in the said Office of the Registrar, shall be and the same are hereby abolished.

Record and
Writ Office.

5. From and after the *Commencement of this Act* there shall be an Office of the High Court of Chancery in Ireland, to be called "the Record and Writ Office," and the Lord Chancellor 15 shall cause to be provided at the Four Courts in the City of Dublin suitable Chambers for the Purposes of the said Office.

Transfer of
Records, &c.
5 & 6 Vict.
c. 103. s. 2.

6. From and after the *Commencement of this Act* all Records, Pleadings, Affidavits, and other Documents in the Custody or Charge of the Officers of the said abolished Offices, and all their 20 Bill Books, Cause Books, Indexes, and other Books in respect of the said abolished Offices, shall be transferred to the said Record and Writ Office, and shall be there kept in Custody of the Chief Clerk of Records and Writs, unless and until other Provision shall be made by Parliament for the Custody of any of said Documents 25 not ordinarily required for the Business of the Court.

Business of
abolished
Offices to be
performed
in the Re-
cord and
Writ Office.

7. All the Business which is now performed and transacted in the following Offices of the said Court, that is to say, in the Affi-
davit Office, in the Office of Writs and Appearances and Notices, in
the Office of the Deputy Keeper of the Rolls, and in the Recog- 30
nizance Office, and the Duties which are now discharged by the
Deputy Keeper of the Rolls, and by the Clerk of Enrolments, the
Clerk and Assistant Clerk of Pleadings in the Office of the Deputy
Keeper of the Rolls, and by the Clerk and Assistant Clerk in the
Registrar's Office in respect of Reports and Accounts there kept, 35
shall, from and after the Commencement of this Act, be performed,
transacted, and discharged in the said Record and Writ Office;
and all Pleadings, Affidavits, Recognizances, Reports, Accounts,
Notices, and other Documents which according to the Practice of
the Court are now filed or lodged in any of the said abolished 40
Offices

Offices shall be filed, lodged, and kept in the said Record and Writ Office; and all the Duties and Authorities which if this Act had not been passed could have been performed and exercised by the Officers of the said abolished Offices shall be performed and exercised by the Officers of the said Record and Writ Office in such Manner as shall be appointed by any General Order made as by this Act is provided.

8. There shall be a Chief Clerk of Records and Writs and Two Assistants to such Chief Clerk in the Record and Writ Office, and the said Chief Clerk and his Assistants shall respectively discharge all such Duties as shall be appointed by any General Order made as by this Act is provided, and the said Officers shall have to aid them in the Discharge of their said Duties the several Clerks set forth in the First Schedule to this Act annexed.

Officers of
Record and
Writ Office.

9. And whereas it is expedient that the new Establishment of Chief Clerk, Assistants, Clerks, and Scrivenery Clerks hereby created shall, in the first instance, consist of Persons employed in the Offices hereby abolished: Be it therefore enacted, That the Persons named in the Second Schedule to this Act annexed as Chief Clerk, Assistants, Clerks, and Scrivenery Clerks in the said Record and Writ Office shall be and the same are hereby appointed and declared to be such Chief Clerk, Assistants, Clerks, and Scrivenery Clerks as therein set forth respectively, and shall hold their respective Offices by the same Tenure as at present; and when any Vacancy happens in the Office of Chief Clerk, of Assistant to such Chief Clerk, of Clerk or Scrivenery Clerk in the said Record and Writ Office respectively, the Person in that Behalf mentioned in the said Second Schedule to this Act annexed shall appoint a fit Person to fill the said Vacancy; and each Person so appointed, save the Scrivenery Clerks, shall hold Office so long as he shall personally attend to the Duties thereof, but shall be removable by an Order of the Lord^e Chancellor with the Concurrence of the Master of the Rolls or the Vice Chancellor, without stating any Cause for such Removal; and each Person now or hereafter appointed a Scrivenery Clerk as aforesaid shall hold Office during the Pleasure of the Lord Chancellor.

New Estab-
lishment
to be formed
from old.

10. There shall be paid to the said Chief Clerk of Records and Writs, and to his Assistants, and to the said Clerks and Scrivenery Clerks of the said Record and Writ Office, the several and respective Salaries in that Behalf set forth in the Second Schedule to this Act annexed; and the said Salaries respectively shall be free from all Taxes and Deductions, except in respect of

Salaries of
Officers.

Income Tax, and shall be paid out of the Funds and in the Manner herein-after provided.

Power to
Lord Chan-
cellor to
transfer
Scrivenery
Clerks from
Registrar's
Office to
Record and
Writ Office.

11. It shall be lawful for the Lord Chancellor from Time to Time to transfer any Person employed as a Scrivenery Clerk in the Registrar's Office of the said Court of Chancery, whose Services in the said Office may be dispensed with, to such Situation of a similar Nature in the said Record and Writ Office as he shall consider such Person best qualified to fill; and any such Person who shall refuse to discharge the Duties of the Situation to which he shall have been transferred as aforesaid shall be liable to Dismissal by the Lord Chancellor. 5

Officers, &c.
of abolished
Offices to
continue to
be Officers,
&c. of the
Court of
Chancery,
and to be
entitled to
receive their
present
Salaries if
they dis-
charge
Duties im-
posed upon
them.

12. Every Person who on the *Thirtieth Day of September One thousand eight hundred and sixty-seven* shall hold any Office or Situation in any Office of the said Court of Chancery which is by this Act abolished, and who is not by this Act appointed to any Office or Situation in the said Record and Writ Office, shall continue to be deemed an Officer of the Court of Chancery, and shall hold by the same Tenure, and be entitled to the like Salary and Superannuation Allowance (if any), as if the said Office or Situation had not been abolished, and shall, unless or until he shall retire pursuant to the Provisions of the "Court of Chancery (Ireland) Regulation Act, 1850," discharge such Duties connected with the Business of the said Court of Chancery, or the Arrangement and Classification of Records in any Public Record Office, or other Place provided for the keeping of Records by Parliament, as shall be assigned to him by the Lord Chancellor, or, at the Instance of the Lord Chancellor, by the Head of such Public Record Office respectively; and every such Person who shall decline to discharge such Duties when called upon to do so shall forfeit his Right to any Benefits to which he would otherwise be entitled under this Act, or the "Court of Chancery (Ireland) Regulation Act, 1850." 15 20 25 30

Appoint-
ment of
Deputy in
case of
Absence of
Clerk of
Records and
Writs.
5 & 6 Vict.
c. 103. s. 6.

13. In case of Absence from Illness or other reasonable Cause it shall be lawful for the said Chief Clerk of Records and Writs to appoint a Deputy, such Deputy and also the Occasion for such Appointment being first approved by the Lord Chancellor; and in case the said Clerk of Records and Writs, being absent as aforesaid, shall neglect to appoint such Deputy, or to renew the Appointment of a Deputy, the Lord Chancellor may appoint a Deputy, and every Deputy to be appointed as aforesaid shall have all the Powers and Authorities of his Principal, and shall be paid such Sum out of the Salary of his Principal as the Lord Chancellor shall direct; and during Vacations the whole of the Business of the 35 40

Record

Record and Writ Office may be performed by such of the Officers of the said Office and upon such Terms as the Lord Chancellor shall by any Order direct.

14. The said Chief Clerk of Records and Writs and the said
 5 Assistants to the said Chief Clerk shall cause every Copy of any Affidavit to be duly compared with the Original from which it shall be made before he shall attest the same, and shall be responsible for the Accuracy of every Copy so attested by him.
15. The said Chief Clerk of Records and Writs and the said
 10 Assistants to the said Chief Clerk may administer the Oaths and take the Affirmations and Attestations of Honour which they may from Time to Time be required to administer and take.
16. All Persons swearing, affirming, or attesting before the said Chief Clerk of Records and Writs, or any Assistant to the
 15 said Chief Clerk, under this Act, shall be liable to all such Penalties, Punishments, and Consequences for any wilful and corrupt false Swearing or Perjury contained therein as if the Matter sworn, affirmed, or attested had been sworn, affirmed, or attested before the High Court of Chancery.
17. If the Chief Clerk of Records and Writs, or any Assis-
 20 tant to the said Chief Clerk, or any Person employed in the said Record and Writ Office, shall, for anything done or pretended to be done relating to his Office or Employment under this Act, or under Colour of doing anything relating to his said Office or
 25 Employment, wilfully demand or accept, or appoint or allow any Person whatsoever to take for him or on his Account, or for or on account of any Person by him named, any Fee, Gift, Gratuity, or Emolument, or anything of Value, other than what is allowed or directed to be taken by him, the Person so offending may, upon
 30 Complaint made to the Lord Chancellor, be removed from any Office or Employment he may hold under this Act.
18. From and after the *Commencement of this Act* no Person
 while he holds any Office or Employment in the Record and Writ Office shall practise as a Barrister or as a Solicitor or Attorney;
 35 and every Solicitor or Attorney who shall accept any Office or Employment under this Act shall be struck off the Roll of Solicitors of the High Court of Chancery, and off the Roll of Attorneys of any of Her Majesty's Courts of Record at Dublin on which his Name may be.

Chief Clerk of Records and Writs to compare and attest Copies of Affidavits. 6 & 7 W. 4. c. 74. s. 5.

The Chief Clerk of Records and Writs, and his Assistants, may administer Oaths and take Affirmations. 5 & 6 Vict. c. 103. s. 7. Persons swearing before such Officers to be subject to Penalties for Perjury. 5 & 6 Vict. c. 103. s. 5. Officers and Clerks not to take Gratuities. 5 & 6 Vict. c. 103. s. 16.

Persons employed under this Act not to practise as Barristers, Solicitors, &c. Solicitors, &c. accepting Office to be struck off the Rolls. 5 & 6 Vict. c. 103. s. 4.

Power to
Vice Chan-
cellor to
appoint
"Clerk in
Court."

19. It shall be lawful for the Vice Chancellor from Time to Time to appoint a competent Writer of Shorthand to the Office of "Clerk in Court," whose Duty it shall be to attend the Vice Chancellor's Court for the Purpose of taking down and transcribing all such Evidence, Statements, and Matters as the Vice Chancellor shall direct, and for the Purpose of reading all Documents necessary to be read in Court, and discharging such other Duties as shall be prescribed by the Vice Chancellor; and such Clerk in Court shall hold his said Office so long as he shall personally attend to the Duties thereof, but shall be removable by the Vice Chancellor with the Concurrence of the Lord Chancellor, without stating any Cause for such Removal.

Future
"Clerks in
Court" in
Lord Chan-
cellor's Court
or Rolls
Court to be
practised
Shorthand
Writers.

20. When any Vacancy shall occur in the Office of "Clerk in Court" in the Lord Chancellor's Court or the Rolls Court it shall be lawful for the Lord Chancellor and Master of the Rolls respectively to appoint a competent Writer of Shorthand to fill such Vacancy; and John Francis Waller, the present "Clerk in Court" in the Rolls Court, and every Person appointed a "Clerk in Court" as aforesaid after the Commencement of this Act, shall, in addition to the Duties hitherto performed by the Person filling such Office, take down and transcribe all such Evidence, Statements, or Matters as the Judge in whose Court he shall attend shall direct.

Salaries of
"Clerks in
Court."

21. There shall be paid to the said John Francis Waller, and to any Person appointed after the Commencement of this Act to the Office of "Clerk in Court" in the Lord Chancellor's Court, Rolls Court, or Vice Chancellor's Court, the net yearly Salary of *Four hundred Pounds*; and the said Salary shall be free from all Taxes and Deductions, except in respect of Income Tax, and shall be paid out of the Funds and in the Manner herein-after provided.

Clerks in
Court to
furnish
Copy of
Minutes of
Evidence.

22. Every "Clerk in Court" appointed after the *Commencement of this Act* shall furnish to any Person requiring the same a Copy of the Minutes of any Evidence taken *vivâ voce* in the Court to which such Clerk shall be attached, on Payment of such Fee as shall be appointed by any General Order made as by this Act is provided; and such Fee shall be payable by such Stamp or Stamps affixed to the Paper on which such Copy is written as by such Order shall be directed; and such Stamps shall be issued, provided, and accounted for and dealt with in like Manner as is provided by the "Court of Chancery (Ireland) Act, 1867," in respect of Stamps.

23. The

23. The Office of Second Examiner-in-Chief in the said Court of Chancery, now vacant, shall not be filled up, and the same is hereby abolished, and the Duties of the said Office shall be discharged, as at present, by the Examiner-in-Chief; and all Records and Documents belonging to the said Office shall be transferred to the said Record and Writ Office, and shall be there kept in the Custody of the said Chief Clerk of Records and Writs unless and until other Provision shall be made by Parliament for the Custody of any of the said Records and Documents.

Office of
Second Ex-
aminer-in-
Chief
abolished.

24. When any Vacancy shall occur in the Office of Supernumerary Examiner to the Receiver Master of the said Court of Chancery, such Vacancy shall not be filled up, and the Duties of such Office shall be discharged by such of the Officers of the said Master and in such Manner as the said Master, with the Approbation of the Lord Chancellor, shall order and direct; and any Person appointed to any Office or Situation in the Registrar's Office after the Commencement of this Act shall not be entitled to claim any Right of Succession to any other Office or Situation in the said Registrar's Office.

Office of
Supernu-
merary
Examiner
abolished.

25. From and after the Commencement of this Act there shall be only Two Taxing Masters of the said Court of Chancery, and the Office of Third Taxing Master of the said Court of Chancery, now vacant, shall be and the same is hereby abolished, and there shall be paid to each Taxing Master the Salary of *One thousand Pounds* on the same Days and out of the same Funds as their present Salaries.

Office of
Third Tax-
ing Master
abolished.

26. It shall be lawful for the Vice Chancellor from Time to Time to appoint a Secretary at a yearly Salary of *Pounds*, and a Trainbearer at a yearly Salary of *One hundred Pounds*, and for the Lord Justice of Appeal in like Manner to appoint a Trainbearer at a yearly Salary of *One hundred Pounds*, and a Tipstaff at a yearly Salary of *Pounds*; and the said Salaries respectively shall be free from all Taxes and Deductions, except in respect of Income Tax, and shall be paid out of the Funds and in the Manner herein-after provided.

Power to
Vice Chan-
cellor to
appoint
Secretary
and Train-
bearer, and
to Lord
Justice of
Appeal to
appoint
Tipstaff.

27. Except as is herein otherwise provided, all Salaries under this Act shall grow due from Day to Day, but shall be paid on the First Day of January, the First Day of April, the First Day of July, and the First Day of October in every Year, *out of such Funds as Parliament shall from Time to Time provide for that Purpose*, and the first of such Payments shall be made on the First Day of January next
[145.]

Payment of
Salaries.

after the Commencement of this Act; and if any Person holding any of the said Offices shall die, resign, or be removed from the same, the Executor or Administrator of the Person so dying, or the Person so resigning or being removed, shall be entitled to receive a proportional Part of his Salary for the Time that such Person shall have lived or executed his Office since the last Payment. 5

Superannuation.

28. The present Taxing Masters of the said Court of Chancery when they shall resign their said Offices respectively, and any Person who shall by this Act or at any Time hereafter be appointed an Officer of any Office in the said Court of Chancery, and who shall thereafter resign his Office, shall be entitled to receive such Superannuation Allowance as the Lords Commissioners of Her Majesty's Treasury shall think proper to direct; and in ascertaining and awarding the Amount of such Superannuation Allowance the said Commissioners shall take into consideration the whole Period during which any such Person shall have been permanently engaged in the said Office or in any other Public Office, and shall proceed according to the Principles laid down by the "Superannuation Act, 1859;" and all Sums and Allowances which shall be so awarded and granted under the Authority aforesaid shall be paid and payable, and be charged and chargeable, in the same Way as is provided in respect of the Salaries of the said Officers. 10 15 20

Orders may be made for carrying Act into execution.

29. The Lord Chancellor, with the Advice and Concurrence of the Master of the Rolls and Vice Chancellor, or either of them, may issue and make such Orders as he shall think fit, as well in relation to any Matter connected with the said abolished Offices, and not hereby otherwise provided for, as for carrying the Provisions of this Act into execution, and for regulating the Amount of Fees payable in the said Record and Writ Office and elsewhere under this Act, and may also make and issue such other Rules and Orders, not being inconsistent with the Enactments and Provisions of this Act, as he shall think fit, for the Performance of the Business heretofore done in the said abolished Offices, and for establishing and settling the Practice of the Office hereby created. 25 30

Orders under the Act may be varied.

30. Any Order or Orders for the Time being made under this Act may from Time to Time be annulled, altered, or varied, and new Orders may from Time to Time be made for any of the Purposes of this Act, by the Lord Chancellor, with the like Advice and Concurrence. 35

Act not to affect other Powers of Lord Chancellor.

31. Provided always, and be it enacted, That nothing in this Act contained shall be construed to affect the general Powers vested in the Lord Chancellor either solely or otherwise. 40

PART

PART II.

OFFICERS OF THE SUPERIOR COURTS OF COMMON LAW
IN IRELAND.

32. From and after the *Commencement of this Act* all Officers of
5 the Pleading Department, Record Department, Rules Department,
in each of the said Superior Courts of Common Law, the Offices of
Principal Assistant and Clerk to each of the Masters of the said
Superior Courts of Common Law, and the Office of Revenue Assis-
tant in the Court of Exchequer, and the Offices of General Purposes
10 Clerks in each of the said Superior Courts of Common Law, shall be
and the same are hereby abolished.

Enumeration
of abolished
Offices.

33. From and after the *Commencement of this Act* the Duties
and Authorities which, if this Act had not been passed, could have
been performed and exercised by the Officers, Assistants, and Clerks
15 of the said abolished Offices shall be performed and exercised by
the Officers and Clerks appointed under the Provisions of this Act,
in such Manner as the Judges of the said Superior Courts of Com-
mon Law shall, by any General Order made as by this Act is pro-
vided, from Time to Time direct.

Duties of
Officers, &c.
of abolished
Offices to be
performed
by Officers
and Clerks
appointed
under Pro-
visions of
this Act.

34. From and after the *Commencement of this Act* there shall
20 be in each of the said Superior Courts of Common Law, to conduct
the Civil Business thereof under the Master, the following Officers
and Clerks; that is to say, a Clerk of the Rules, a Pleading and
Record Assistant, a Chief Clerk, and Two First-class, Two Second-
25 class, and Two Third-class Clerks; and the said Officers and Clerks
shall respectively discharge all such Duties as they shall from Time
to Time be directed by any General Order made as by this Act is
provided by the Judges of the said Superior Courts of Common
Law, and such Officers and Clerks shall hold their respective Offices
30 so long as they shall personally attend to the Duties of the same,
but shall be removable by Order of the Judges of the Court to
which they shall be respectively attached, without stating any Cause
for such Removal.

New
Officers.

35. From and after the *Commencement of this Act* there shall
35 be paid to the Master of each of the said Superior Courts of Common
Law, and to the Officers appointed under this Act, in the first
instance, to each of the said Courts, and to their Successors, and
to any Crier hereafter appointed in any of the said Courts, the
several and respective Salaries in that Behalf set forth in the
40 Schedule (A.) to this Act annexed; and the said Salaries shall be
[145.] B free

Salaries of
Officers and
Clerks.

free from all Taxes and Deductions, except in respect of Income Tax, and shall grow due from Day to Day, but shall be paid quarterly, on the First Day of January, the First Day of April, the First Day of July, and the First Day of October in every Year, by equal Portions, *out of such Funds as Parliament shall from Time to Time 5 provide for that Purpose*; and the first of such Payments shall be made on the First Day of January next after the Commencement of this Act; and if any Person holding any of the said Offices shall die, resign, or be removed from the same, the Executor or Administrator of the Person so dying or the Person so resigning 10 or being removed shall be entitled to receive a proportional Part of his Salary for the Time that such Person shall have lived or executed his Office since the last Payment.

New Establishments to be formed from old.

36. And whereas it is expedient that the new Establishments of Clerk of the Rules, of Pleading and Record Assistant, Chief 15 Clerk, and First, Second, and Third Class Clerks, should in the first instance consist of Persons employed in the Offices hereby abolished: Be it therefore enacted, That the present Clerks of the Rules shall be the Clerks of the Rules under this Act, and that the Judges of each of the said Superior Courts of Common Law shall 20 tender to the Officers, Assistants, and Clerks of the Offices by this Act abolished in their Court, according to their respective Rank and Seniority at the Time of the passing of this Act, if they shall deem them competent for the Discharge of such Duties, the Option of accepting the Offices of Pleading and Record Assistant, of Chief 25 Clerk, and of First, Second, or Third Class Clerk; and any such Officer, Assistant, or Clerk who shall decline to accept any Office tendered to him as aforesaid shall be deemed to have resigned his said Office, and shall be entitled to receive such Retiring Allowance as is herein-after provided: Provided always, that any Officer, 30 Assistant, or Clerk of any of the said abolished Offices appointed to any of the said Offices by this Act created in manner aforesaid shall hold his Office by the same Tenure as he held his former Office, and shall be entitled to receive a Salary not less than that which he enjoyed in virtue of his said former Office, and such Salary shall 35 be paid to him out of the like Funds and in like Manner as the Salaries payable under this Act.

Vacancy in Office of Clerk of the Rules to be filled by Lord Lieutenant.

37. When a Vacancy happens in the Office of Clerk of the Rules in any of the said Courts it shall be lawful for the Lord Lieutenant or other Chief Governor or Governors of Ireland for the Time being 40 to appoint a fit Person to fill the Vacancy, being or having been a Barrister of not less than *Five Years* Standing at the Bar, or an Attorney of all or any of the said Courts of not less than *Five Years*

Years Standing, or a Person who shall have served as an Officer or Clerk in any of the Offices of the said Courts for not less than *Five Years* in the whole.

38. When a Vacancy happens in the Office of Pleading and Record Assistant, or of Chief Clerk, the Judges of the Court in which there shall be such Vacancy shall appoint such Person filling an Office in the said Court as, having regard to Length of Service and Competency, they shall consider most fit to fill the Vacancy.

Vacancies in Offices of Pleading and Record Assistant, and Chief Clerk, to be filled by Judges.

39. When a Vacancy happens in the Office of First or Second Class Clerk the Judges of the Court in which there shall be such Vacancy shall appoint such Clerk of the Second or Third Class in the said Court as, having regard to Length of Service and Competency, they shall consider most fit to fill the Vacancy; and when any Vacancy happens in the Office of Third-class Clerk the Judges of the Court in which there shall be such Vacancy shall appoint a fit Person to fill the Vacancy.

Vacancies in Offices of First, Second, and Third Class Clerks to be filled by Judges.

40. Every Person who on the *Thirtieth Day of September One thousand eight hundred and sixty-seven* shall hold any Office or Situation in any of the Superior Courts of Common Law which is by this Act abolished, and who shall not have been tendered the Option of accepting any of the Offices by this Act created, shall continue to be deemed an Officer of the Court in which he shall have held such Office or Situation, and shall hold by the same Tenure, and be entitled to the like Salary, as if this Act had not been passed, and shall, unless and until he shall retire pursuant to the Provisions of this Act, discharge such Duties connected with the Business of the said Court, or the Arrangement and Classification of Records in any Public Record Office or other Place provided for the keeping of Records by Parliament, as shall be assigned to him by the Judges of the said Court, or by the Head of such Public Record Office, at the Instance of such Judges respectively; and every such Person who shall decline to discharge such Duties when called upon to do so shall forfeit his Right to any Benefits to which he would otherwise be entitled under this Act.

Officers of abolished Offices to continue Officers of Court to which they shall have been attached, and to receive Salaries if they discharge Duties imposed upon them.

41. Section 8. and so much of an Act passed in the Session of Parliament holden in the Seventh and Eighth Years of the Reign of Her present Majesty, intituled "An Act to regulate and reduce the Expenses of the Offices attached to the Superior Courts of Law in Ireland payable out of the Consolidated Fund," as shall be inconsistent with any of the Clauses or Provisions of this Act, shall be and the same is hereby repealed; and so many and such

So much of 7 & 8 Vict. c. 107. as is inconsistent with this Act repealed, and such Parts as are applicable to extend to it.

Part and Parts of the Clauses and Enactments of the said recited Act as may be applicable to the several Officers and Clerks appointed under this Act shall extend and be construed to extend and be applied to such Officers and Clerks respectively as fully and effectually as if such Clauses and Enactments had been repeated and re-enacted in this Act. 5

Orders may be made and varied for carrying Act into execution.

42. The Judges of the said Superior Courts of Common Law may issue and make such Orders as they shall think fit, as well in relation to any Matter connected with the said abolished Offices as for carrying the Provisions of this Act into force, and may make and issue such other Rules and Orders, not being inconsistent with the Provisions of this Act, as they shall think fit, for the Performance of the Business of the said abolished Offices, and for settling the Practice in the Offices of the said Superior Courts of Common Law, and may annul, alter, or vary such Orders as they shall think fit: Provided always, that no such Order shall take effect unless and until it shall be approved and signed by Two of the Chief Judges and Five of the Puisne Judges of the said Superior Courts of Common Law. 10 15

Fees now payable to Masters to be henceforth received by Stamps.

43. *From and after the Commencement of this Act all and every the Fees authorized and made payable under and by virtue of the several Acts set forth in the Schedule (B.) to this Act annexed shall no longer be received in Money, but by a Stamp denoting the Amount of the Fee which would otherwise be payable; and where any Fee shall be payable in respect of any Document, such Stamp shall, at the Expense of the Party liable to pay the Fee, and in such Manner and under such Regulations as shall by any General Order made as by this Act directed, be stamped on the Vellum, Parchment, or Paper on which the Proceeding in respect whereof such Fee is payable is written, printed, or engrossed, or which may be otherwise used in reference to such Proceedings.* 20 25 30

Officers of Court of Queen's Bench (Crown Side) not to receive Fees otherwise than by Stamps.

44. *From and after the Commencement of this Act no Officer employed on the Crown Side of the Court of Queen's Bench in Ireland shall be entitled to receive and retain for his own Use any Fee, Emolument, or Reward whatsoever; and all and every the Fees claimed or payable for or by reason of any Matter or Thing done or to be done by the said Clerk of the Crown in his said Office, or in anywise appertaining to the Business thereof, now received in Money, shall no longer be received in Money, but by a Stamp denoting the Amount of the Fee which otherwise would be payable; and where any Fee shall be payable in respect of any Document, such Stamp shall, at the Expense of the Party liable to pay the Fee,* 35 40

Fee, and in such Manner and under such Regulations as shall be directed by any General Order under this Act, be stamped or affixed on the Vellum, Parchment, or Paper on which the Proceeding in respect where of such Fee is payable is written, printed, or engrossed, or which may be otherwise used in reference to such Proceedings.

45. *All Stamps by this Act directed to be substituted for Fees in any of the said Superior Courts of Common Law, or in the Crown Office of the said Court of Queen's Bench, shall be issued by and shall be under the Care and Management of the Commissioners of Inland Revenue ; and the several Rules, Regulations, Provisions, Penalties, Clauses, and Matters contained in any Act now or hereafter to be in force with reference to Stamp Duties shall be applicable thereto.*

Stamps to be issued by Commissioners of Inland Revenue.

46. *From and after the Commencement of this Act there shall be paid to the Clerk of the Crown of the Court of Queen's Bench in Ireland, in lieu of any Salary, Fees, or Emoluments to which he may now be entitled under the Provisions of any Act of Parliament or otherwise howsoever, the net annual Salary of Eight hundred Pounds, which Salary shall issue and be payable out of and be charged upon the Consolidated Fund of the United Kingdom of Great Britain and Ireland, and shall be free from all Taxes and Deductions, except in respect of Income Tax, and shall be paid quarterly on the First Day of January, the First Day of April, the First Day of July, and the First Day of October in every Year, by equal Portions, and the first of such Payments shall be made on the First Day of January next after the Commencement of this Act.*

Salary of 800*l.* to the Clerk of the Crown.

47. *From and after the Commencement of this Act there shall be paid to any Person employed as Chief Clerk to the said Clerk of the Crown appointed after the passing of this Act the net yearly Salary of Two hundred Pounds, to be increased every Year of Service by the net annual Sum of Pounds, until the yearly Salary of such Chief Clerk shall amount to the net yearly Salary of Three hundred Pounds: Provided always, that James Willson, the present Chief Clerk to the said Clerk of the Crown, shall, so long as he shall continue in the said Office, be paid the net yearly Salary of Pounds in lieu of any Salary, Fees, or Emoluments to which he may be now entitled under the Provisions of any Act of Parliament or otherwise howsoever.*

Salary of the Chief Assistant Clerk.

48. *From and after the Commencement of this Act the said Clerk of the Crown may, in addition to the said Chief Clerk,* Power to employ additional Clerk.
[145.] C 2 employ Clerk.

employ a Clerk, removable at his Pleasure, to aid him in the Discharge of the Duties of his said Office; and there shall be paid to such Clerk the net yearly Salary of *One hundred Pounds*, to be increased every year of Service by the net annual Sum of *Ten Pounds* until the yearly Salary of such Clerk shall amount to the net yearly Salary of *One hundred and fifty Pounds*; and Richard Maybury, at present a Clerk in the Employ of the said Clerk of the Crown, shall be the first such Clerk, and shall, so long as he shall continue in said Office, be paid the said full yearly Salary of *One hundred and fifty Pounds*.

10

Payment of
Salaries.

49. The said Salaries of the said James Willson and Richard Maybury, and of their respective Successors in the said Offices, shall be free from all Taxes and Deductions, except in respect of Income Tax, and shall respectively be paid quarterly on the First Day of January, the First Day of April, the First Day of July, and the First Day of October in every Year, by equal Portions, *out of such Funds as Parliament shall from Time to Time provide for such Purpose*, and the first of such Payments shall be made on the First Day of January next after the Commencement of this Act.

20

Power to
Chief Clerk
to make
Affidavits.

50. From and after the *Commencement of this Act* it shall be lawful for the said Chief Clerk to the said Clerk of the Crown, so long as he shall hold his said Office, whenever he shall be thereunto required, except on Sundays, Good Friday, and Christmas Day, to take Affidavits, Affirmations, or Attestations upon Honour, in all Matters relating to the Business of the Crown Side of the Court of Queen's Bench in Ireland, and to administer the necessary Oaths, Affirmations, or Attestations for that Purpose; and all such Oaths, Affidavits, Affirmations, and Attestations shall be of the same Force, Validity, and Effect, and shall and may be proceeded upon and dealt with in all respects, and to all Intents and Purposes, as if the same had been taken, made, or administered by or before the said Court, or any of the Judges thereof, or by or before the said Clerk of the Crown; and any Person who shall wilfully or corruptly swear, affirm, or attest anything false in any such Affidavits, Affirmations, or Attestations so taken or administered by the said Chief Clerk shall be subject to all Pains, Penalties, Punishments, and Disabilities for wilful and corrupt Perjury, in like Manner as if such Affidavits, Affirmations, or Attestations had been made or taken by or in the said Court of Queen's Bench, or any of the Judges thereof, or by or before the said Clerk of the Crown aforesaid.

25

30

35

40

51. During

51. During the temporary Absence of the said Clerk of the Crown the affixing or signing the Name of the said Clerk of the Crown by the said Chief Clerk to all Orders, Writs, Pleadings, Instruments, and Proceedings, and Superintendence of same, upon his being duly authorized in that Behalf by the said Clerk of the Crown so to do, but not further nor otherwise, shall be as good, valid, and effectual as if the same were respectively affixed, signed, or done in person by the Clerk of the Crown aforesaid.

Power to Chief Clerk to sign Documents.

56. There shall be paid to the present Registrar or Clerk of Nisi Prius for the Consolidated Nisi Prius Court in Ireland, and to his Successors in the said Office, in addition to the annual Salary which is now payable to such Officer, the net annual sum of *One hundred Pounds, which Sum shall be paid out of the same Funds and in like Manner as the present Salary of the said Officer.*

Additional Salary to Registrar of Consolidated Nisi Prius Court.

53. Any Person holding any Office in any of the said Superior Courts of Common Law at the Commencement of this Act, or who is in this Act appointed to any such Office, or who shall at any Time hereafter be appointed to any Office in any of the said Superior Courts of Common Law, and who shall resign his Office, shall be entitled to receive such Superannuation Allowance as the Lords Commissioners of Her Majesty's Treasury shall think proper to direct; and in ascertaining and awarding the Amount of such Superannuation Allowance, the said Commissioners shall take into consideration the whole Period during which any such Person shall have been permanently employed in the said Office or in any other Public Office, and shall proceed according to the Principles laid down by "Superannuation Act, 1859;" and all Sums and Allowances which shall be so awarded and granted under the Authority aforesaid shall be paid and payable and be charged and chargeable in the same Way as is provided in respect of the Salaries of the said Officers: Provided always, that in case Arthur Bushe, Esquire, Master of the Court of Queen's Bench, shall retire from his said Office, he shall be entitled to receive yearly and every Year during his Life the Sum of *Three hundred and eighty-four Pounds Twelve Shillings and Threepence*, in addition to any Sum the Lords Commissioners of Her Majesty's Treasury may award to him by way of Superannuation Allowance in respect of his said Office of Master.

Superannuation.

Proviso as to A. Bushe, Esq., Master of Court of Queen's Bench.

SCHEDULES referred to and made Part of the foregoing Act.

SCHEDULE I.

Setting forth the Number of Clerks and Scriveners for the Record and Writ Office.

Three First-class Clerks. 5

Three Second-class Clerks.

So many Scrivenery Clerks as the Lord Chancellor, with the Consent of Lords Commissioners of Her Majesty's Treasury, shall appoint.

SCHEDULE II. 10

Setting forth Names of Persons appointed in the first instance as Officers of the Record and Writ Office, the yearly Salaries payable to them and to their Successors respectively, and the Names of the respective Persons by whom Persons to fill Vacancies in any of the said Offices shall be appointed. 15

Office.	Name.	Yearly Salary.	Person to appoint Officer.
Chief Clerk - -	J. Reilly, Esq. -	1,000 <i>l.</i> - -	20
1st Assistant -	M. W. Brady, Esq.	800 <i>l.</i> - -	
2nd Assistant -	- -	600 <i>l.</i> - -	
1st Class Clerks - {	- - -	300 <i>l.</i> , to be increased by 10 <i>l.</i> every Year of Service up to 400 <i>l.</i>	25
2nd Class Clerks - {	- - -	200 <i>l.</i> , to be increased by 10 <i>l.</i> every Year of Service up to 300 <i>l.</i>	
Scrivenery Clerks {	- - -	Such Salaries as the Lord Chancellor, with the Consent of the Lords Commissioners of Her Majesty's Treasury, shall appoint.	
			30
			35

SCHEDULE A.

Setting forth the yearly Salaries payable to the Master of each of the said Superior Courts of Common Law, and to the Officers appointed under this Act, in the first instance, to each of the said Courts, and to their Successors respectively, and to any Crier hereafter appointed in any of the said Courts.

	Office.	Yearly Salary payable to	
		Present Masters, and to Officers appointed in the first instance.	Persons appointed afterwards.
10	Master - - -	1,200 <i>l.</i> - - -	1,200 <i>l.</i>
	Clerk of the Rules - -	900 <i>l.</i> - - -	700 <i>l.</i> , to be increased by 25 <i>l.</i> every Year of Service till Salary amounts to 900 <i>l.</i>
15	Pleading and Record Assistant.	700 <i>l.</i> - - -	600 <i>l.</i> , to be increased by 20 <i>l.</i> every Year of Service till Salary amounts to 700 <i>l.</i>
20	Chief Clerk - -	500 <i>l.</i> - - -	400 <i>l.</i> , to be increased by 20 <i>l.</i> every Year of Service till Salary amounts to 500 <i>l.</i>
25	Two First-class Clerks -	350 <i>l.</i> each - - -	250 <i>l.</i> , to be increased by 20 <i>l.</i> every Year of Service till Salary amounts to 350 <i>l.</i>
30	Two Second-class Clerks -	250 <i>l.</i> each - - -	200 <i>l.</i> , to be increased by 10 <i>l.</i> every Year of Service till Salary amounts to 250 <i>l.</i>
35	Two Third-class Clerks -	200 <i>l.</i> each - - -	150 <i>l.</i> , to be increased by 10 <i>l.</i> every Year of Service till Salary amounts to 200 <i>l.</i>
	Crier - - -	- - -	100 <i>l.</i>

SCHEDULE B.

Setting forth the Statutes referred to in Section 43. of this Act.

40	3 & 4 Vict. c. 105. s. 16.
	11 & 12 Vict. c. 120. ↓
	12 & 13 Vict. c. 104. s. 17.
	13 & 14 Vict. c. 29.
	17 & 18 Vict. c. 55.

Courts of Law Officers (Ireland).

A

B I L L

To alter and regulate the Official Establishment of the High Court of Chancery and of the Superior Courts of Common Law in Ireland.

(Prepared and brought in by
*Mr. Attorney General for Ireland and
Lord Naas*)

*Ordered, by The House of Commons, to be Printed,
13 May 1867.*

[Bill 146.]

Under 3 oz.



A

B I L L

[AS AMENDED IN COMMITTEE]

TO

Alter and regulate the Official Establishment of
the High Court of Chancery and of the Superior
Courts of Common Law in Ireland.

WHEREAS it is expedient to alter and regulate the Official Preamble.
Establishments of the High Court of Chancery and of
the Superior Courts of Common Law in Ireland :

Be it therefore enacted by the Queen's most Excellent Majesty,
5 by and with the Advice and Consent of the Lords Spiritual and
Temporal, and Commons, in this present Parliament assembled,
and by the Authority of the same, as follows :

1. This Act may be cited for all Purposes as "The Chancery and Short Title.
Common Law Offices (Ireland) Act, 1867."

10 2. This Act shall commence and have effect on the First Day of Commence-
October One thousand eight hundred and sixty-seyen. ment of
Act.

PART I.

OFFICES OF THE HIGH COURT OF CHANCERY IN IRELAND.

3. From and after the Commencement of this Act the following 5 & 6 Vict.
15 Offices of the High Court of Chancery in Ireland, namely, the G. 103. s. 1.
[Bill 178.] A Offices

Offices of Clerk and Assistant Clerk of Affidavits, of Clerk and Assistant Clerk of Appearances and Writs, of Deputy Keeper of the Rolls, of Clerk and Assistant Clerk of Enrolments, and of Clerk and Assistant Clerk of Pleadings in the Department of the Deputy Keeper of the Rolls, of Clerk of Recognizances, and of Clerk and 5 Assistant Clerk of the Record Department in the Office of the Registrar, and of the Cash Clerk in the said Office of the Registrar, shall be and the same are hereby abolished.

Record and
Writ Office.

4. From and after the Commencement of this Act there shall be an Office of the High Court of Chancery in Ireland, to be 10 called "the Record and Writ Office," and the Lord Chancellor and the Master of the Rolls shall cause to be provided at the Four Courts in the City of Dublin suitable Chambers for the Purposes of the said Office.

Transfer of
Records, &c.
5 & 6 Vict.
c. 103. s. 2.

5. From and after the Commencement of this Act all Records, 15 Pleadings, Affidavits, and other Documents in the Custody or Charge of the Officers of the said abolished Offices, and all their Bill Books, Cause Books, Indexes, and other Books in respect of the said abolished Offices, shall be transferred to the said Record and Writ Office, and shall be there kept in Custody of the Chief 20 Clerk of Records and Writs, unless and until other Provision shall be made by Parliament for the Custody of any of said Documents not ordinarily required for the Business of the Court.

Business of
abolished
Offices to be
performed
in the Re-
cord and
Writ Office.

6. All the Business which is now performed and transacted in the following Offices of the said Court, that is to say, in the Affi- 25 davit Office, in the Office of Writs and Appearances, in the Office of the Deputy Keeper of the Rolls, and in the Recognizance Office, and the Duties which are now discharged by the Deputy Keeper of the Rolls, and by the Clerk of Enrolments, the Clerk and Assistant Clerk of Pleadings in the Office of the Deputy Keeper of the Rolls, 30 and by the Clerk and Assistant Clerk in the Registrar's Office in respect of Reports and Accounts there kept, shall, from and after the Commencement of this Act, be performed, transacted, and discharged in the said Record and Writ Office; and the Notice Department in the Office of Appearances and Writs shall continue 35 as at present constituted, and shall form a Part of the said Record and Writ Office, and shall be under the Control and Supervision of the Clerk of Records and Writs; and all Pleadings, Affidavits, Recognizances, Reports, Accounts, Notices, and other Documents which according to the Practice of the Court are now filed or lodged 40 in

in any of the said abolished Offices shall be filed, lodged, and kept in the said Record and Writ Office; and all the Duties and Authorities which if this Act had not been passed could have been performed and exercised by the Officers of the said abolished Offices shall be performed and exercised by the Officers of the said Record and Writ Office in such Manner as shall be appointed by any General Order made as by this Act is provided.

7. There shall be a Clerk of Records and Writs and Two Assistants to such Clerk in the Record and Writ Office, and the said Clerk and his Assistants shall respectively discharge all such Duties as shall be appointed by any General Order made as by this Act is provided, and the said Officers shall have to aid them in the Discharge of their said Duties the several Clerks set forth in the First Schedule to this Act annexed, and so many Scrivenery Clerks as the Lord Chancellor with the Consent of the Commissioners of Her Majesty's Treasury shall appoint.

Officers of
Record and
Writ Office.

8. And whereas it is expedient that the new Establishment of Clerk of Records and Writs, Assistants, and Clerks hereby created shall, in the first instance, consist of Persons employed in the Offices hereby abolished: Be it therefore enacted, That the Persons named in the Second Schedule to this Act annexed as Clerk of Record and Writs, Assistants, and Clerks in the said Record and Writ Office shall be and the same are hereby appointed such Clerk of Record and Writs, Assistants, and Clerks as therein set forth respectively, and they shall hold their respective Offices by the same Tenure as at present; and when any Vacancy happens in the Office of Clerk of Records and Writs, of Assistant to such Clerk, or of Clerk in the said Record and Writ Office respectively, the Judge in that Behalf mentioned in the said Second Schedule to this Act annexed shall appoint a fit Person to fill the said Vacancy; and each Person so appointed shall hold Office by the same Tenure as an Officer serving in an established Capacity in the permanent Civil Service of the State, but shall be removable by an Order of the Lord Chancellor with the Concurrence of the Master of the Rolls or the Vice Chancellor, without stating any Cause for such Removal: Provided always, that no Person shall be appointed to the Office of Second-class Clerk unless he shall have received a Certificate of Fitness from the Civil Service Commissioners, or shall have been employed in any of the Offices by this Act abolished.

New Estab-
lishment
to be formed
from old.

9. There shall be paid to the said Clerk of Records and Writs, and to his Assistants, and to the said Clerks of the said Record and

Salaries of
Officers.

Writ Office appointed under this Act in the first instance, and to their Successors, the several and respective Salaries in that Behalf set forth in the Second Schedule to this Act annexed.

Power to
Lord Chan-
cellor to
transfer
Scrivenery
Clerks from
Registrar's
Office to
Record and
Writ Office.

10. It shall be lawful for the Lord Chancellor from Time to Time to transfer any Person employed as a Scrivenery Clerk in the 5 Registrar's Office of the said Court of Chancery, whose Services in the said Office may be dispensed with, to such Situation of a similar Nature in the said Record and Writ Office as he shall consider such Person best qualified to fill; and any such Person who shall refuse to discharge the Duties of the Situation to which he shall 10 have been transferred as aforesaid shall be liable to Dismissal by the Lord Chancellor.

Officers, &c.
of abolished
Offices to
continue to
be Officers,
&c. of the
Court of
Chancery,
and to be
entitled to
receive their
present
Salaries if
they dis-
charge
Duties im-
posed upon
them.

11. Every Person who on the Thirtieth Day of September One thousand eight hundred and sixty-seven shall hold any Office or Situation in any Office of the said Court of Chancery which is by 15 this Act abolished, and who is not by this Act appointed to any Office or Situation in the said Record and Writ Office, shall continue to be deemed an Officer of the Court of Chancery, and shall hold by the same Tenure, and be entitled to the like Salary and Superannuation Allowance (if any), as if the said Office or 20 Situation had not been abolished, and shall, unless and until he shall retire pursuant to the Provisions of the "Court of Chancery (Ireland) Regulation Act, 1850," discharge such Duties connected with the Business of the said Court of Chancery, or the Arrange- 25 ment and Classification of Records in any Public Record Office, as shall be assigned to him by the Lord Chancellor, or, at the Instance of the Lord Chancellor, by the Head of such Public Record Office respectively; and every such Person who shall decline to discharge such Duties when called upon to do so shall forfeit 30 his Right to any Benefits to which he would otherwise be entitled under this Act, or the "Court of Chancery (Ireland) Regulation Act, 1850."

Appoint-
ment of
Deputy in
case of
Absence of
Clerk of
Records and
Writs.
5 & 6 Vict.
c. 103. s. 6.

12. In case of Absence from Illness or other reasonable Cause it shall be lawful for the said Clerk of Records and Writs to 35 appoint a Deputy, such Deputy and also the Occasion for such Appointment being first approved by the Lord Chancellor; and in case the said Clerk of Records and Writs, being absent as aforesaid, shall neglect to appoint such Deputy, or to renew the Appointment of a Deputy, the Lord Chancellor may appoint a Deputy, and 40 every Deputy to be appointed as aforesaid shall have all the

Powers

Powers and Authorities of his Principal, and shall be paid such Sum out of the Salary of his Principal as the Lord Chancellor shall direct; and during Vacations the whole of the Business of the Record and Writ Office may be performed by such of the Officers
5 of the said Office and upon such Terms as the Lord Chancellor shall by any Order direct.

13. The said Clerk of Records and Writs and the said Assistants to the said Clerk shall cause every Copy of any Affidavit to be duly compared with the Original from which it shall be made before he
10 shall attest the same, and shall be responsible for the Accuracy of every Copy so attested by him.

Clerk of
Records
and Writs
to compare
and attest
Copies of
Affidavits.
6 & 7 W. 4.
c. 74. s. 5.

14. The said Clerk of Records and Writs and the said Assistants to the said Clerk may administer the Oaths and take the Affirmations and Attestations of Honour which they may from Time to Time be
15 required to administer and take.

The Clerk of
Records and
Writs, and his
Assistants,
may administer
Oaths and take
Affirmations.
5 & 6 Vict.
c. 103. s. 7.

15. All Persons swearing, affirming, or attesting before the said Clerk of Records and Writs, or any Assistant to the said Clerk, under this Act, shall be liable to all such Penalties, Punishments, and Consequences for any wilful and corrupt false Swearing or
20 Perjury contained therein as if the Matter sworn, affirmed, or attested had been sworn, affirmed, or attested before the High Court of Chancery.

Persons
swearing
before such
Officers to be
subject to
Penalties for
Perjury.
5 & 6 Vict.
c. 103. s. .

16. If the Clerk of Records and Writs, or any Assistant to the said Clerk, or any Person employed in the said Record and Writ
25 Office, shall, for anything done or pretended to be done relating to his Office or Employment under this Act, or under Colour of doing anything relating to his said Office or Employment, wilfully demand or accept, or appoint or allow any Person whatsoever to take for him or on his Account, or for or on account of any Person by him
30 named, any Fee, Gift, Gratuity, or Emolument, or anything of Value, other than what is allowed or directed to be taken by him, the Person so offending may, upon Complaint made to the Lord Chancellor, be removed from any Office or Employment he may hold under this Act.

Officers
and Clerks
not to take
Gratuities.
5 & 6 Vict.
c. 103. s. 16.

17. No Person while he holds any Office or Employment in the Record and Writ Office shall practise as a Barrister or as a Solicitor or Attorney; and every Solicitor or Attorney who shall accept any Office or Employment under this Act shall be struck off the Roll of Solicitors of the High Court of Chancery, and off the
[178.]

Persons
employed
under this
Act not to
practise as
Barristers,
Solicitors,
&c.
Solicitors,
&c. accept-
ing Office to

be struck
off the Rolls.
5 & 6 Vict.
c. 103. s. 4.

Power to
Vice Chan-
cellor to
appoint
"Clerk in
Court."

Roll of Attorneys of any of Her Majesty's Courts of Record at Dublin on which his Name may be.

18. It shall be lawful for the Vice Chancellor from Time to Time to appoint a competent Writer of Shorthand to the Office of "Clerk in Court," whose Duty it shall be to attend the Vice Chancellor's Court for the Purpose of taking down and transcribing all such Evidence, Statements, and Matters as the Vice Chancellor shall direct, and for the Purpose of reading all Documents necessary to be read in Court, and discharging such other Duties as shall be prescribed by the Vice Chancellor. 5 10

Future
"Clerks in
Court" in
Lord Chan-
cellor's Court
or Rolls
Court to be
practised
Shorthand
Writers.

19. When any Vacancy shall occur in the Office of "Clerk in Court" in the Lord Chancellor's Court or the Rolls Court it shall be lawful for the Lord Chancellor and Master of the Rolls respectively to appoint a competent Writer of Shorthand to fill such Vacancy; and the present "Clerk in Court" in the Rolls Court, and every Person appointed a "Clerk in Court" as aforesaid after the Commencement of this Act, shall, in addition to the Duties hitherto performed by the Person filling such Office, take down and transcribe all such Evidence, Statements, and Matters as the Judge in whose Court he shall attend shall direct. 15 20

Salaries of
"Clerks in
Court."

20. There shall be paid to the present Clerk in Court in the Rolls Court, and to any Person appointed after the Commencement of this Act to the Office of "Clerk in Court" in the Lord Chancellor's Court, Rolls Court, or Vice Chancellor's Court, the net yearly Salary of Four hundred Pounds, and every such Clerk in Court shall hold his Office by the same Tenure as an Officer serving in an established Capacity in the permanent Civil Service of the State, but shall be removable by the Judge to whose Court he shall be attached. 25

Office of
Second
Examiner-
in-Chief
abolished.

21. The Office of Second Examiner-in-Chief in the said Court of Chancery, now vacant, shall not be filled up, and the same is hereby abolished, and the Duties of the said Office shall be discharged, as at present, by the Examiner-in-Chief; and all Records and Documents belonging to the said Office shall be transferred to the said Record and Writ Office, and shall be there kept in the Custody of the said Chief Clerk of Records and Writs unless and until other Provision shall be made by Parliament for the Custody of any of the said Records and Documents. 30 35

Office of
Supernu-
merary

22. When any Vacancy shall occur in the Office of Supernumerary Examiner to the Receiver Master of the said Court of Chancery, 40

Chancery, such Vacancy shall not be filled up, and the Duties of such Office shall be discharged by such of the Officers of the said Master and in such Manner as the said Master, with the Approbation of the Lord Chancellor, shall order and direct; and any Person appointed to any Office or Situation in the Registrar's Office after the Commencement of this Act shall not be entitled to claim any Right of Succession to any other Office or Situation in the said Registrar's Office.

Examiner
abolished.

23. There shall be only Two Taxing Masters of the said Court of Chancery, and the Office of Third Taxing Master of the said Court of Chancery, now vacant, shall be and the same is hereby abolished, and there shall be paid to each Taxing Master the yearly Salary of One thousand Pounds.

Office of
Third Tax-
ing Master
abolished.

24. It shall be lawful for the Vice Chancellor to appoint a Trainbearer at a yearly Salary of One hundred Pounds, and for the Lord Justice of Appeal to appoint a Trainbearer at a yearly Salary of One hundred Pounds, and a Tipstaff at a yearly Salary of Fifty Pounds.

Power to
Vice Chan-
cellor to
appoint
Secretary
and Train-
bearer, and
to Lord
Justice of
Appeal to
appoint
Tipstaff.

25. The present Taxing Masters of the said Court of Chancery when they shall resign their said Offices respectively, and any Person appointed an Officer of any Office in the said Court of Chancery, who shall resign his Office, shall be entitled to receive such Superannuation Allowance as the Commissioners of Her Majesty's Treasury shall think proper to direct; and in ascertaining and awarding the Amount of such Superannuation Allowance the said Commissioners shall take into consideration the whole Period during which any such Person shall have been permanently engaged in the said Office or in any other Public Office, and shall proceed according to the Principles laid down by the "Superannuation Act, 1859;" and all Sums and Allowances which shall be so awarded and granted under the Authority aforesaid shall be paid and payable, and be charged and chargeable, in the same Way as is provided in respect of the Salaries of the said Officers: Provided always, that any Person who shall have been employed in any of the Offices of the said Court of Chancery by this Act abolished, and who is or shall be appointed to any Office in said Court by or under this Act, shall be entitled to the same Retiring or Superannuation Allowance, and upon the same Conditions under the Court of Chancery, Ireland, Regulation Act, 1850, as if his said Office had not been hereby abolished, and in case the Salary of the Office under this

Superannu-
ation.

Act which he shall hold at the Time of his Retirement or Superannuation shall exceed the Salary of such abolished Office, then such Officer shall, in case he shall have served not less Three Years in such new Office, be entitled to receive such further Superannuation Allowance in respect of such Excess as the said Commissioners shall think proper to direct, and same shall be ascertained and awarded in manner herein-before mentioned.

Orders may
be made for
carrying
Act into
execution.

26. The Lord Chancellor, with the Advice and Concurrence of the Master of the Rolls and Vice Chancellor, or either of them, may make such Orders as he shall think fit, as well in relation **10** to any Matter connected with the said abolished Offices, and not hereby otherwise provided for, as for carrying the Provisions of this Act into execution, and for regulating the Amount of Fees payable in the said Record and Writ Office and elsewhere under this Act, and may also make such other Rules and Orders, not **15** being inconsistent with the Enactments and Provisions of this Act, as he shall think fit, for the Performance of the Business heretofore done in the said abolished Offices, and for establishing and settling the Practice of the Office hereby created.

Orders
under the
Act may be
varied.

27. Any Order or Orders for the Time being made under this **20** Act may from Time to Time be annulled, altered, or varied, and new Orders may from Time to Time be made for any of the Purposes of this Act, by the Lord Chancellor, with the like Advice and Concurrence.

Act not to
affect other
Powers of
Lord Chan-
cellor.

28. Provided always, and be it enacted, That nothing in this Act **25** contained shall be construed to affect the general Powers vested in the Lord Chancellor either solely or otherwise.

PART II.

OFFICERS OF THE SUPERIOR COURTS OF COMMON LAW IN IRELAND.

Enumeration
of abolished
Offices.

29. From and after the Commencement of this Act the Offices of the Pleading Department, the Record Department, and the Rules Department, except the Office of Clerk of the Rules, in each of the said Superior Courts of Common Law, the Offices of Principal Assistant and Clerk to each of the Masters of the said Superior **35** Courts of Common Law, the Office of Revenue Assistant in the Court of Exchequer, and the Offices of General Purposes Clerks in each of the said Superior Courts of Common Law, shall be and the same are hereby abolished.

30. From

30. From and after the Commencement of this Act the Duties and Authorities which, if this Act had not been passed, could have been performed and exercised by the Officers, Assistants, and Clerks of the said abolished Offices shall be performed and exercised by the Officers and Clerks appointed under the Provisions of this Act, in such Manner as the Judges of the said Superior Courts of Common Law shall, by any General Order made as by this Act is provided, from Time to Time direct.

Duties of Officers, &c. of abolished Offices to be performed by Officers and Clerks appointed under Provisions of this Act.

31. From and after the Commencement of this Act there shall be in each of the said Superior Courts of Common Law, to conduct the Civil Business thereof beside the Master and Clerk of the Rules, the following Officers and Clerks; that is to say, a Pleadings and Record Assistant, a Chief Clerk, and Two First-class, Two Second-class, and Two Third-class Clerks; and the said Officers and Clerks shall respectively discharge all such Duties as they shall from Time to Time be directed by any General Order made as by this Act is provided by the Judges of the said Superior Courts of Common Law, and such Officers and Clerks shall hold their respective Offices by the same Tenure as an Officer serving in an established Capacity in the permanent Civil Service of the State, but shall be removable by Order of the Judges of the Court to which they shall be respectively attached, without stating any Cause for such Removal.

New Officers.

32. Whereas additional Duties will by this Act be imposed upon the present Masters of the Courts of Queen's Bench and Common Pleas, and it is expedient that Compensation for the same shall be made to them: Be it therefore enacted, That in case the present Salaries and Emoluments of the said present Masters, or either of them, shall not amount in the whole to the annual Sum of One thousand four hundred Pounds, there shall be paid to such Masters or Master while holding such Office such further annual Sum as, together with their or his present Salary and Emoluments, shall amount for each to the full Sum of *One thousand four hundred Pounds* a Year.

Proviso as to present Masters.

33. Save as is by the next preceding Section provided there shall be paid to the Master of each of the said Superior Courts of Common Law the yearly Salary of *Twelve hundred Pounds*, and to the Clerk of the Rules and Officers of each of the said Superior Courts of Common Law and to any Crier hereafter appointed in any of the said Courts, the several and respective Salaries in that Behalf set forth in the Schedule (A.) to this Act annexed.

Salaries of Masters and Officers.

New Establishments
to be formed
from old.

34. And whereas it is expedient that the new Establishments of Pleadings and Record Assistant, Chief Clerk, and First, Second, and Third Class Clerks, should in the first instance consist of Persons employed in the Offices hereby abolished: Be it therefore enacted, That the Judges of each of the said Superior Courts of Common Law shall tender to the Officers, Assistants, and Clerks of the Offices by this Act abolished in their Court, of less than Forty Years Service, according to their respective Rank and Seniority at the Time of the passing of this Act, if they shall deem them competent for the Discharge of such Duties, the Option of accepting the Offices of Pleadings and Record Assistant, of Chief Clerk, and of First, Second, or Third Class Clerk; and any such Officer, Assistant, or Clerk who shall decline to accept any Office tendered to him as aforesaid shall be deemed to have resigned his said Office, and shall be entitled to receive such Retiring Allowance as is herein-after provided: Provided always, that any Officer, Assistant, or Clerk of any of the said abolished Offices appointed to any of the said Offices by this Act created in manner aforesaid shall hold his Office by the same Tenure as he held his former Office, and shall be entitled to receive a Salary not less than that which he enjoyed in virtue of his said former Office, and such Salary shall be paid to him out of the like Funds and in like Manner as the Salaries payable under this Act; and any Instrument by which any Person employed in any of the said abolished Offices shall be appointed to any of the above-mentioned Offices shall not be chargeable with any Stamp Duty.

Vacancies
in Offices
of Pleading
and Record
Assistant,
and Chief
Clerk, to be
filled by
Judges.

35. When a Vacancy happens in the Office of Pleadings and Record Assistant, or of Chief Clerk, the Judges of the Court in which there shall be such Vacancy shall appoint such Person filling an Office in the said Court as, having regard to the existing Rights of Succession of the present Officers, to Length of Service, and Competency, they shall consider most fit to fill the Vacancy.

Vacancies
in Offices
of First,
Second, and
Third Class
Clerks to
be filled by
Judges.

36. When a Vacancy happens in the Office of First or Second Class Clerk the Judges of the Court in which there shall be such Vacancy shall appoint such Clerk of the Second or Third Class in the said Court as, having regard to the existing Rights of Succession of the present Officers, to Length of Service, and Competency, they shall consider most fit to fill the Vacancy; and when any Vacancy happens in the Office of Third-class Clerk the Judges of the Court in which there shall be such Vacancy shall appoint a fit Person to fill the Vacancy: Provided always, that no Person shall be appointed to the Office of Third-class Clerk unless he shall have received a Certificate of Fitness from the Civil Service Commissioners,

sioners, or shall have been employed in any of the Offices by this Act abolished.

37. Any Officer, Assistant, or Clerk of less than Forty Years Service, who on the Thirtieth of September One thousand eight hundred and sixty-seven shall hold any Office or Situation in any of the Superior Courts of Common Law which is by this Act abolished, and who shall not have been tendered the Option of accepting any of the Offices by this Act created, shall continue to be deemed an Officer of the Court in which he shall have held such Office or Situation, and shall hold by the same Tenure, and be entitled to the like Salary, as if the said Office or Situation had not been abolished, and shall, unless and until he shall retire pursuant to the Provisions of this Act, discharge such Duties connected with the Business of the said Court, or the Arrangement and Classification of Records in any Public Record Office or other Place provided for the keeping of Records by Parliament, as shall be assigned to him by the Judges of the said Court, or by the Head of such Public Record Office, at the Instance of such Judges respectively; and every such Person who shall decline to discharge such Duties when called upon to do so shall forfeit his Right to any Benefits to which he would otherwise be entitled under this Act.

Officers of abolished Offices to continue Officers of Court to which they shall have been attached, and to receive Salaries if they discharge Duties imposed upon them.

38. So much of an Act passed in the Session of Parliament holden in the Seventh and Eighth Years of the Reign of Her present Majesty, intituled "An Act to regulate and reduce the Expenses of the Offices attached to the Superior Courts of Law in Ireland payable out of the Consolidated Fund," as shall be inconsistent with any of the Clauses or Provisions of this Act, and also Section Eight of the same Act, shall be and the same are hereby repealed; and so many and such Parts of the Clauses and Enactments of the said recited Act as may be applicable to the several Officers and Clerks appointed under this Act shall extend and be construed to extend and be applied to such Officers and Clerks respectively as fully and effectually as if such Clauses and Enactments had been repeated and re-enacted in this Act.

So much of 7 & 8 Vict. c. 107. as is inconsistent with this Act repealed, and such Parts as are applicable to extend to it.

39. The Judges of the said Superior Courts of Common Law may make such Orders as they shall think fit, as well in relation to any Matter connected with the said abolished Offices as for carrying the Provisions of this Act into force, and may make such other Rules and Orders, not being inconsistent with the Provisions of this Act, as they shall think fit, for the Performance of the Business of the said abolished Offices, and for settling the Practice in the Offices of the said Superior Courts of Common

Orders may be made and varied for carrying Act into execution.

Law, and may annul, alter, or vary such Orders as they shall think fit: Provided always, that no such Order shall take effect unless and until it shall be approved and signed by Two of the Chief Judges and Five of the Puisse Judges of the said Superior Courts of Common Law.

5

Fees now payable to Masters to be henceforth received by Stamps.

40. *From and after the Commencement of this Act all and every the Fees authorized and made payable under and by virtue of the several Acts set forth in the Schedule (B.) to this Act annexed shall no longer be received in Money, but by a Stamp denoting the Amount of the Fee which would otherwise be payable; and where* 10
any Fee shall be payable in respect of any Document, such Stamp shall, at the Expense of the Party liable to pay the Fee, and in such Manner and under such Regulations as shall by any General Order made as by this Act directed, be stamped on the Vellum, Parchment, or Paper on which the Proceeding in respect whereof such 15
Fee is payable is written, printed, or engrossed, or which may be otherwise used in reference to such Proceedings.

Officers of Court of Queen's Bench (Crown Side) not to receive Fees otherwise than by Stamps.

41. *From and after the Commencement of this Act no Officer employed on the Crown Side of the Court of Queen's Bench in Ireland shall be entitled to receive and retain for his own Use any* 20
Fee, Emolument, or Reward whatsoever; and all and every the Fees claimed or payable for or by reason of any Matter or Thing done or to be done by the said Clerk of the Crown in his said Office, or in anywise appertaining to the Business thereof, now received in Money, shall no longer be received in Money, but by a Stamp 25
denoting the Amount of the Fee which otherwise would be payable; and where any Fee shall be payable in respect of any Document, such Stamp shall, at the Expense of the Party liable to pay the Fee, and in such Manner and under such Regulations as shall be directed by any General Order under this Act, be stamped or affixed 30
on the Vellum, Parchment, or Paper on which the Proceeding in respect whereof such Fee is payable is written, printed, or engrossed, or which may be otherwise used in reference to such Proceedings.

Stamps to be issued by Commissioners of Inland Revenue.

42. *All Stamps by this Act directed to be substituted for Fees in any of the said Superior Courts of Common Law, or in the* 35
Crown Office of the said Court of Queen's Bench, shall be issued by and shall be under the Care and Management of the Commissioners of Inland Revenue; and the several Rules, Regulations, Provisions, Penalties, Clauses, and Matters contained in any Act now or hereafter to be in force with reference to Stamp Duties shall be 40
applicable thereto.

43. *From*

43. From and after the Commencement of this Act there shall be paid to the Clerk of the Crown of the Court of Queen's Bench in Ireland, in lieu of any Salary, Fees, or Emoluments to which he may now be entitled under the Provisions of any Act of Parliament
5 or otherwise howsoever, the yearly Salary of Eight hundred Pounds.

Salary of 800*l.* to the Clerk of the Crown.

44. From and after the Commencement of this Act there shall be paid to any Person employed as Chief Clerk to the said Clerk of the Crown appointed after the passing of this Act the yearly Salary of Two hundred Pounds, to be increased every Year of Service by
10 the annual Sum of Ten Pounds, until the Yearly Salary of such Chief Clerk shall amount to the yearly Salary of Three hundred Pounds : Provided always, that the present Chief Clerk to the said Clerk of the Crown shall, so long as he shall continue in the said Office, be paid the yearly Salary of _____ Pounds in lieu of any
15 Salary, Fees, or Emoluments to which he may be now entitled under the Provisions of any Act of Parliament or otherwise howsoever.

Salary of the Chief Assistant Clerk.

45. The said Clerk of the Crown may, in addition to the said Chief Clerk, employ a Clerk, removable at his Pleasure, to aid him in the Discharge of the Duties of his said Office ; and there shall be
20 paid to such Clerk the yearly Salary of One hundred Pounds, to be increased every Year of Service by the annual Sum of Ten Pounds until the yearly Salary of such Clerk shall amount to the yearly Salary of One hundred and fifty Pounds ; and the Clerk at present in the Employ of the said Clerk of the Crown shall be the first such
25 Clerk, and shall, so long as he shall continue in said Office, be paid the said full yearly Salary of One hundred and fifty Pounds.

Power to employ additional Clerk.

46. It shall be lawful for the Chief Clerk to the said Clerk of the Crown to take Affidavits, Affirmations, or Attestations upon Honour, in all Matters relating to the Business of the Crown Side of the Court
30 of Queen's Bench in Ireland, and to administer the necessary Oaths, Affirmations, or Attestations for that Purpose ; and all such Oaths, Affidavits, Affirmations, and Attestations shall be of the same Force, Validity, and Effect, and shall and may be proceeded upon and dealt with in all respects, and to all Intents and Purposes, as
35 if the same had been taken, made, or administered by or before the said Court, or any of the Judges thereof, or by or before the said Clerk of the Crown ; and any Person who shall wilfully or corruptly swear, affirm, or attest anything false in any such Affidavits, Affirmations, or Attestations so taken or administered by the said
40 Chief Clerk shall be subject to all Pains, Penalties, Punishments, and Disabilities for wilful and corrupt Perjury, in like Manner as if such Affidavits, Affirmations, or Attestations had been made or

Power to Chief Clerk to take Affidavits.

taken by or in the said Court of Queen's Bench, or any of the Judges thereof, or by or before the said Clerk of the Crown aforesaid.

Power to
Chief Clerk
to sign
Documents.

7. During the temporary Absence of the said Clerk of the Crown the affixing or signing the Name of the said Clerk of the Crown by the said Chief Clerk to all Orders, Writs, Pleadings, Instruments, and Proceedings, upon his being duly authorized in that Behalf by the said Clerk of the Crown so to do, but not otherwise, shall be as good, valid, and effectual as if the same were respectively affixed, or signed, or done in person by the Clerk of the Crown aforesaid.

Additional
Salary to
Registrar of
Consolidated
Nisi Prius
Court.

48. There shall be paid to the present Registrar or Clerk of Nisi Prius for the Consolidated Nisi Prius Court in Ireland, and to his Successors in the said Office, in addition to the annual Salary which is now payable to such Officer, the annual sum of *One hundred Pounds*.

Superannu-
ation.

49. Any Master, Clerk of the Rules, or other Officer of any of the said Superior Courts of Common Law, who shall resign his Office, shall be entitled to receive such Superannuation Allowance as the Commissioners of Her Majesty's Treasury shall think proper to direct; and in ascertaining and awarding the Amount of such Superannuation Allowance, the said Commissioners shall take into consideration the whole Period during which any such Person shall have been permanently employed in the said Office or in any other Public Office, and shall proceed according to the Principles laid down by "Superannuation Act, 1859;" and any Officer, Assistant, or Clerk of any Office by this Act abolished, who shall have served for a Period of not less than Forty Years, shall be entitled to receive during his Life an Annuity equal to his Salary at the Time of the Abolition of his Office, and all Sums and Allowances which shall be so awarded and granted under the Authority aforesaid shall be paid and payable and be charged and chargeable in the same Way as is provided in respect of the Salaries of the said Officers: Provided always, that in case Arthur Bushe, Esquire, Master of the Court of Queen's Bench, shall for any Cause retire from his said Office, he shall be entitled to receive yearly and every Year during his Life the Sum of Three hundred and eighty-four Pounds Twelve Shillings and Threepence, provided for him by the said Act of the Seventh and Eighth Years of the Reign of Her present Majesty, in addition to any Sum the Commissioners of Her Majesty's Treasury may award to him by way of Superannuation Allowance in respect of his said Office of Master.

Proviso as to
A. Bushe,
Esq., Master
of Court
of Queen's
Bench.

Salaries.

Salaries.

50. *The Salaries of the Masters of the said Superior Courts of Common Law shall be charged upon and paid out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, and the Salary of the present Clerk of the Crown of the said Court of Queen's Bench shall, so long as he shall hold such Office, be also charged upon and paid out of the said Consolidated Fund; and all other Salaries under Parts I. and II. of this Act shall be paid out of such Funds as Parliament shall from Time to Time provide for such Purpose.*

Funds for
Payment of
Salaries.

51. All Salaries under Parts I. and II. of this Act shall grow due from Day to Day, but shall be paid on the usual Quarter Days; and if any Person holding any of the said Offices shall die, resign, or be removed from the same, the Executor or Administrator of the Person so dying, or the Person so resigning or being removed, shall be entitled to receive a proportional Part of his Salary for the Time that such Person shall have lived or executed his Office since the last Payment.

Payment of
Salaries.

SCHEDULES referred to and made Part of the foregoing Act.

SCHEDULE I.

Setting forth the Number of Clerks for the Record and Writ Office.
Three First-class Clerks.
Three Second-class Clerks.
Three Notice Clerks and One Entering Clerk in the Notice Department.

5

SCHEDULE II.

Setting forth the Persons appointed in the first instance as Officers of the Record and Writ Office, the yearly Salaries payable to 10 them and to their Successors respectively, and the Judges by whom Persons to fill Vacancies in any of the said Offices shall be appointed.

Office.	Name.	Yearly Salary payable to		Judges to appoint Officers.	
		Officers appointed in the first instance.	Persons appointed afterwards.		
Clerk of Records and Writs.	J. Reilly, Esq.	1,200 <i>l.</i>	1,000 <i>l.</i> - -		20
1st Assistant -	M. W. Brady, Esq.	800 <i>l.</i> -	800 <i>l.</i> - -		
2nd Assistant -	- - -	- -	600 <i>l.</i> - -		
1st Class Clerks -	- - -	- -	300 <i>l.</i> , to be increased by 15 <i>l.</i> every Year of Service up to 400 <i>l.</i>		25
2nd Class Clerks -	- - -	- -	200 <i>l.</i> , to be increased by 10 <i>l.</i> every Year of Service up to 300 <i>l.</i>		30
Clerks in the Notice Department {	1 } Present	185 <i>l.</i> -	180 <i>l.</i> - -		
	2 } Clerks in this	175 <i>l.</i> -	150 <i>l.</i> - -		
	3 } Depart-ment	115 <i>l.</i> -	120 <i>l.</i> - -		35
Entering Clerk in Notice Department.		155 <i>l.</i> -	150 <i>l.</i> - -		

SCHEDULE (A.)

Setting forth the yearly Salaries payable to the Clerk of the Rules and Officers of each of the said Superior Courts of Common Law, and to any Crier hereafter appointed in any of the said Courts.

5

Office.	Yearly Salary payable to	
	Clerks of the Rules and Officers appointed in the first instance.	Persons appointed afterwards.
10 Clerk of the Rules - -	900 <i>l.</i> - - -	700 <i>l.</i> , to be increased by 25 <i>l.</i> every Year of Service till Salary amounts to 900 <i>l.</i>
15 Pleadings and Record Assistant.	700 <i>l.</i> - - -	600 <i>l.</i> , to be increased by 20 <i>l.</i> every Year of Service till Salary amounts to 700 <i>l.</i>
Chief Clerk - -	500 <i>l.</i> - - -	400 <i>l.</i> , to be increased by 20 <i>l.</i> every Year of Service till Salary amounts to 500 <i>l.</i>
20 Two First-class Clerks -	350 <i>l.</i> each - -	250 <i>l.</i> , to be increased by 15 <i>l.</i> every Year of Service till Salary amounts to 350 <i>l.</i>
25 Two Second-class Clerks -	250 <i>l.</i> each - -	200 <i>l.</i> , to be increased by 10 <i>l.</i> every Year of Service till Salary amounts to 250 <i>l.</i>
30 Two Third-class Clerks -	200 <i>l.</i> each - -	150 <i>l.</i> , to be increased by 10 <i>l.</i> every Year of Service till Salary amounts to 200 <i>l.</i>
Crier - - -	- - -	100 <i>l.</i>

35

SCHEDULE (B.)

Setting forth the Statutes referred to in Section 41. of this Act.

40

- 3 & 4 Vict. c. 105. s. 16.
- 11 & 12 Vict. c. 120.
- 12 & 13 Vict. c. 104. s. 17.
- 12 & 13 Vict. c. 107. s. 112.
- 13 & 14 Vict. c. 29.
- 17 & 18 Vict. c. 55.

Courts of Law Officers
(Ireland).

A

B I L L

[AS AMENDED IN COMMITTEE]

To alter and regulate the Official Establishment of the High Court of Chancery and of the Superior Courts of Common Law in Ireland.

(Prepared and brought in by
Mr. Attorney General for Ireland and
Lord Naas.)

*Ordered, by The House of Commons, to be Printed,
3 June 1867.*

[Bill 178.]

Under 3 oz.



A

B I L L

[AS AMENDED IN COMMITTEE AND ON RE-COMMITMENT]

TO

Alter and regulate the Official Establishment of the High Court of Chancery and of the Superior Courts of Common Law in Ireland.

WHEREAS it is expedient to alter and regulate the Official Preamble.
Establishments of the High Court of Chancery and of
the Superior Courts of Common Law in Ireland :

Be it therefore enacted by the Queen's most Excellent Majesty,
5 by and with the Advice and Consent of the Lords Spiritual and
Temporal, and Commons, in this present Parliament assembled,
and by the Authority of the same, as follows :

1. This Act may be cited for all Purposes as "The Chancery and Short Title.
Common Law Offices (Ireland) Act, 1867."

10 2. This Act shall commence and have effect on the First Day of Commence-
October One thousand eight hundred and sixty-seven. ment of
Act.

PART I.

OFFICES OF THE HIGH COURT OF CHANCERY IN IRELAND.

3. From and after the Commencement of this Act the following 5 & 6 Vict.
15 Offices of the High Court of Chancery in Ireland, namely, the c. 103. s. 1.
[Bill 248.] A Offices

Offices of Clerk and Assistant Clerk of Affidavits, of Clerk and Assistant Clerk of Appearances and Writs, of Deputy Keeper of the Rolls, of Clerk and Assistant Clerk of Enrolments, and of Clerk and Assistant Clerk of Pleadings in the Department of the Deputy Keeper of the Rolls, of Clerk of Recognizances, and of Clerk and Assistant Clerk of the Record Department in the Office of the Registrar, and of the Cash Clerk in the said Office of the Registrar, shall be and the same are hereby abolished.

Record and
Writ Office.

4. From and after the Commencement of this Act there shall be an Office of the High Court of Chancery in Ireland, to be called "the Record and Writ Office," and the Lord Chancellor and the Master of the Rolls shall cause to be provided at the Four Courts in the City of Dublin suitable Chambers for the Purposes of the said Office. 10

Transfer of
Records, &c.
5 & 6 Vict.
c. 103. s. 2.

5. From and after the Commencement of this Act all Records, Pleadings, Affidavits, and other Documents in the Custody or Charge of the Officers of the said abolished Offices, and all their Bill Books, Cause Books, Indexes, and other Books in respect of the said abolished Offices, shall be transferred to the said Record and Writ Office, and shall be there kept in Custody of the Clerk of Records and Writs, unless and until other Provision shall be made by Parliament for the Custody of any of said Documents not ordinarily required for the Business of the Court. 15 20

Business of
abolished
Offices to be
performed
in the Re-
cord and
Writ Office.

6. All the Business which is now performed and transacted in the following Offices of the said Court, that is to say, in the Affidavit Office, in the Office of Writs and Appearances, in the Office of the Deputy Keeper of the Rolls, and in the Recognizance Office, and the Duties which are now discharged by the Deputy Keeper of the Rolls, and by the Clerk and Assistant Clerk of Enrolments, the Clerk and Assistant Clerk of Pleadings in the Office of the Deputy Keeper of the Rolls, and by the Clerk and Assistant Clerk in the Registrar's Office in respect of Reports and Accounts there kept, shall, from and after the Commencement of this Act, be performed, transacted, and discharged in the said Record and Writ Office; and the Notice Department in the Office of Appearances and Writs shall continue as at present constituted, and shall form a Part of the said Record and Writ Office, and shall be under the Control and Supervision of the Clerk of Records and Writs; and all Pleadings, Affidavits, Recognizances, Reports, Accounts, Notices, and other Documents which according to the Practice of the Court are now filed or lodged in any of the said abolished Offices shall be filed, lodged, and kept in the said Record and Writ Office; and all the 25 30 35 40

the Duties and Authorities which if this Act had not been passed could have been performed and exercised by the Officers of the said abolished Offices shall be performed and exercised by the Officers of the said Record and Writ Office in such Manner as
5 shall be appointed by any General Order made as by this Act is provided.

7. There shall be a Clerk of Records and Writs and Two Assistants to such Clerk in the Record and Writ Office, and the said Clerk and his Assistants shall respectively discharge all such Duties as
10 shall be appointed by any General Order made as by this Act is provided, and the said Officers shall have to aid them in the Discharge of their said Duties the several Clerks set forth in the First Schedule to this Act annexed, and so many Scrivenery Clerks as the Lord Chancellor with the Consent of the Commissioners of Her Majesty's
15 Treasury shall appoint.

8. And whereas it is expedient that the new Establishment of Clerk of Records and Writs Assistants and Clerks hereby created shall in the first instance consist of Persons employed in the Offices hereby abolished: Be it therefore enacted, That John Reilly,
20 Esquire, Deputy Keeper of the Rolls, shall be and he is hereby appointed Clerk of Records and Writs, and Mazien J. Brady, Esquire, Clerk of Affidavits, shall be and he is hereby appointed First Assistant in said Record and Writ Office, and they shall hold their respective Offices by the same Tenure as they hold their
25 said Offices by this Act abolished, and the Lord Chancellor, with the Concurrence of the Master of the Rolls and Vice-Chancellor, or One of them, shall tender to the Clerks and Assistant Clerks of the Offices by this Act abolished, according to their respective Rank and Seniority at the Time of the passing of this Act, if
30 competent for the permanent Discharge of such Duties, the Option of accepting the Offices of Second Assistant and First and Second Class Clerk, and any such Clerk or Assistant Clerk of less than Twenty-five Years' Service, who shall decline to accept any Office tendered to him as aforesaid, shall be deemed to have resigned his
35 said Office, and shall be entitled to receive such retiring Allowance as is provided by Section Twenty-five of this Act for Officers of the Court of Chancery; and if there shall not be found amongst the Clerks and Assistant Clerks whose Offices are hereby abolished a sufficient Number of Persons to fill the Places of Clerks in said Record and Writ Office, the Lord Chancellor and the Master of
40 the Rolls shall alternately, beginning with the Master of the Rolls, appoint a fit Person or fit Persons to fill such Place or Places: Provided always, that any Clerk or Assistant Clerk of any of the

Officers of
Record and
Writ Office.

CLAUSE A.
New Estab-
lishment to
be formed
from Persons
employed in
abolished
Offices.

said abolished Offices appointed to any of the said Offices by this Act created in Manner aforesaid shall hold his Office by the same Tenure as he held his former Office, and shall be entitled to receive a Salary not less than that which he enjoyed in virtue of his said former Office, and such Salary shall be paid to him out of the like 5 Funds and in like Manner as the Salaries payable under this Act; and any Instrument by which any Person employed in any of the said abolished Offices shall be appointed to any of the above-mentioned Offices shall not be chargeable with any Stamp Duty.

CLAUSE B.
How Va-
cancies in
Record and
Writ Office
to be filled
up.

9. When any Vacancy happens in the Office of Clerk of Records 10 and Writs, the Master of the Rolls shall appoint a fit Person to fill the said Vacancy; and when any Vacancy happens in the Office of First Assistant in the said Record and Writ Office, the Lord Chancellor shall appoint a fit Person to fill the said Vacancy; and when any Vacancy happens in the Office of Second Assistant in said 15 Record and Writ Office the Master of the Rolls shall appoint a fit Person to fill the said Vacancy; and when any Vacancy happens in the Office of First-class Clerk, the Lord Chancellor shall promote thereto the Clerk of the Second-class next in Seniority who shall be competent to fill the said Vacancy; and when any Vacancy 20 happens in the Office of Second-class Clerk, the Lord Chancellor and the Master of the Rolls shall alternately, beginning with the Master of the Rolls, appoint a fit Person to fill the said Vacancy; and when any Vacancy happens in the Office of Clerk in the Notice Department, the Master of the Rolls shall appoint a 25 fit Person to fill the said Vacancy.

CLAUSE C.
Tenure of
Office.

10. Every Person appointed to any Place under this Act, save such Persons as shall have held Offices by this Act abolished, shall hold Office by the same Tenure as an Officer serving in an established Capacity in the permanent Civil Service of the State, 30 but shall be removable by an Order of the Lord Chancellor, with the Concurrence of the Master of the Rolls or the Vice-Chancellor, without stating any Cause for such Removal: Provided always, that no Person shall be appointed to the Office of Second-class Clerk unless he shall have received a Certificate of Fitness from the 35 Civil Service Commissioners, or shall have been employed in any of the Offices by this Act abolished.

Salaries of
Officers.

11. There shall be paid to the said Clerk of Records and Writs, and to his Assistants, and to the said Clerks of the said Record and Writ Office appointed under this Act in the first instance, and to 40 their Successors, the several and respective Salaries in that Behalf set forth in the Second Schedule to this Act annexed.

12. It

12. It shall be lawful for the Lord Chancellor from Time to Time to transfer any Person employed as a Scrivenery Clerk in the Registrar's Office of the said Court of Chancery, whose Services in the said Office may be dispensed with, to such Situation of a similar Nature in the said Record and Writ Office as he shall consider such Person best qualified to fill; and any such Person who shall refuse to discharge the Duties of the Situation to which he shall have been transferred as aforesaid shall be liable to Dismissal by the Lord Chancellor.
13. Every Person who on the Thirtieth Day of September One thousand eight hundred and sixty-seven shall hold any Office or Situation in any Office of the said Court of Chancery which is by this Act abolished, and who, being of more than Twenty-five Years Service, shall not have accepted, or being of less than Twenty-five Years Service shall not have been tendered the Option of accepting, is not by this Act appointed to any Office or Situation in the said Record and Writ Office, shall continue to be deemed an Officer of the Court of Chancery, and shall hold by the same Tenure, and be entitled to the like Salary and Superannuation Allowance (if any), as if the said Office or Situation had not been abolished, and shall, unless and until he shall retire pursuant to the Provisions of the "Court of Chancery (Ireland) Regulation Act, 1850," discharge such Duties suitable to his position as an Officer of said Court connected with the Business of the said Court of Chancery, or the Arrangement and Classification of Records in any Public Record Office, or other Place provided for the keeping of Records by Parliament, as shall be assigned to him by the Lord Chancellor, or, at the Instance of the Lord Chancellor, by the Head of such Public Record Office respectively; and every such Person who shall decline to discharge such Duties when called upon to do so shall forfeit his Right to any Benefits to which he would otherwise be entitled under this Act, or the "Court of Chancery (Ireland) Regulation Act, 1850."
14. In case of Absence from Illness or other reasonable Cause it shall be lawful for the said Clerk of Records and Writs to appoint a Deputy, such Deputy and also the Occasion for such Appointment being first approved by the Lord Chancellor; and in case the said Clerk of Records and Writs, being absent as aforesaid, shall neglect to appoint such Deputy, or to renew the Appointment of a Deputy, the Lord Chancellor may appoint a Deputy, and every Deputy to be appointed as aforesaid shall have all the Powers and Authorities of his Principal, and shall be paid such Sum out of the Salary of his Principal as the Lord Chancellor shall

Power to Lord Chancellor to transfer Scrivenery Clerks from Registrar's Office to Record and Writ Office.

Officers, &c. of abolished Offices to continue to be Officers, &c. of the Court of Chancery, and to be entitled to receive their present Salaries if they discharge Duties imposed upon them.

Appointment of Deputy in case of Absence of Clerk of Records and Writs.

5 & 6 Vict. c. 103. s. 6.

shall direct; and during Vacations the whole of the Business of the Record and Writ Office may be performed by such of the Officers of the said Office and upon such Terms as the Lord Chancellor shall by any Order direct.

Clerk of
Records
and Writs
to compare
and attest
Copies of
Affidavits.
6 & 7 W. 4.
c. 74. s. 5.

15. The said Clerk of Records and Writs and the said Assistants 5
to the said Clerk shall cause every Copy of any Affidavit to be duly
compared with the Original from which it shall be made before he
shall attest the same, and shall be responsible for the Accuracy of
every Copy so attested by him.

The Clerk of
Records and
Writs, and his
Assistants,
may administer
Oaths and take
Affirmations.
5 & 6 Vict.
c. 103. s. 7.

16. The said Clerk of Records and Writs and the said Assistants 10
to the said Clerk may administer the Oaths and take the Affirmations
and Attestations of Honour which they may from Time to Time be
required to administer and take.

Persons
swearing
before such
Officers to be
subject to
Penalties for
Perjury.
5 & 6 Vict.
c. 103. s. 8.

17. All Persons swearing, affirming, or attesting before the said
Clerk of Records and Writs, or any Assistant to the said Clerk, 15
under this Act, shall be liable to all such Penalties, Punishments,
and Consequences for any wilful and corrupt false Swearing or
Perjury contained therein as if the Matter sworn, affirmed, or
attested had been sworn, affirmed, or attested before the High Court
of Chancery. 20

Officers
and Clerks
not to take
Gratuities.
5 & 6 Vict.
c. 103. s. 16.

18. If the Clerk of Records and Writs, or any Assistant to the
said Clerk, or any Person employed in the said Record and Writ
Office, shall, for anything done or pretended to be done relating to
his Office or Employment under this Act, or under Colour of doing
anything relating to his said Office or Employment, wilfully demand 25
or accept, or appoint or allow any Person whatsoever to take for
him or on his Account, or for or on account of any Person by him
named, any Fee, Gift, Gratuity, or Emolument, or anything of
Value, other than what is allowed or directed to be taken by him,
the Person so offending may, upon Complaint made to the Lord 30
Chancellor, be removed from any Office or Employment he may
hold under this Act.

Persons
employed
under this
Act not to
practise as
Barristers,
Solicitors,
&c.
Solicitors,
&c. accept-
ing Office to
be struck
off the Rolls.
5 & 6 Vict.
c. 103. s. 4.

19. No Person while he holds any Office or Employment in
the Record and Writ Office shall practise as a Barrister or as a
Solicitor or Attorney; and every Solicitor or Attorney who shall 35
accept any Office or Employment under this Act shall be struck off
the Roll of Solicitors of the High Court of Chancery, and off the
Roll of Attorneys of any of Her Majesty's Courts of Record at
Dublin on which his Name may be.

20. It

20. It shall be lawful for the Vice Chancellor from Time to Time to appoint a competent Writer of Shorthand to the Office of "Clerk in Court," whose Duty it shall be to attend the Vice Chancellor's Court for the Purpose of taking down and
5 transcribing all such Evidence, Statements, and Matters as the Vice Chancellor shall direct, and for the Purpose of reading all Documents necessary to be read in Court, and discharging such other Duties as shall be prescribed by the Vice Chancellor.

Power to Vice Chancellor to appoint "Clerk in Court."

21. When any Vacancy shall occur in the Office of "Clerk in
10 Court" in the Lord Chancellor's Court or the Rolls Court it shall be lawful for the Lord Chancellor and Master of the Rolls respectively to appoint a competent Writer of Shorthand to fill such Vacancy; and the present "Clerk in Court" in the Rolls Court, and every Person appointed a "Clerk in Court" as aforesaid
15 after the Commencement of this Act, shall, in addition to the Duties hitherto performed by the Person filling such Office, take down and transcribe all such Evidence, Statements, and Matters as the Judge in whose Court he shall attend shall direct.

Future "Clerks in Court" in Lord Chancellor's Court or Rolls Court to be practised Shorthand Writers.

22. There shall be paid to the present Clerk in Court in the
20 Rolls Court, and to any Person appointed after the Commencement of this Act to the Office of "Clerk in Court" in the Lord Chancellor's Court, Rolls Court, or Vice Chancellor's Court, the net yearly Salary of Four hundred Pounds, and every such Clerk in Court shall hold his Office by the same Tenure as an Officer serving
25 in an established Capacity in the permanent Civil Service of the State, but shall be removable by the Judge to whose Court he shall be attached.

Salaries of "Clerks in Court."

23. After the Expiration of Two Years from the passing of this Act, it shall be lawful for the Commissioners of Her Majesty's
30 Treasury, if they shall so think fit, to increase the Salaries of all or any of the Clerks in Court appointed under this Act to any Sum they may think fit, not exceeding the Yearly Salary of Six hundred Pounds for each such Clerk, upon the Recommendation of the Judge to whose Court the Clerk shall be attached.

CLAUSE D.
Power to increase Salaries of Clerks in Court.

35 24. The Office of Second Examiner-in-Chief in the said Court of Chancery, now vacant, shall not be filled up, and the same is hereby abolished, and the Duties of the said Office shall be discharged, as at present, by the Examiner-in-Chief; and all Records and Documents belonging to the said Office shall be transferred to
40 the said Record and Writ Office, and shall be there kept in the Custody of the said Chief Clerk of Records and Writs unless and

Office of Second Examiner-in-Chief abolished.

until other Provision shall be made by Parliament for the Custody of any of the said Records and Documents.

Office of
Supernu-
merary
Examiner
abolished.

25. When any Vacancy shall occur in the Office of Supernumerary Examiner to the Receiver Master of the said Court of Chancery, such Vacancy shall not be filled up, and the Duties of 5 such Office shall be discharged by such of the Officers of the said Master and in such Manner as the said Master, with the Approbation of the Lord Chancellor, shall order and direct; and any Person appointed to any Office or Situation in the Registrar's Office after the Commencement of this Act shall not be entitled to 10 claim any Right of Succession to any other Office or Situation in the said Registrar's Office.

Office of
Third Tax-
ing Master
abolished.

26. There shall be only Two Taxing Masters of the said Court of Chancery, and the Office of Third Taxing Master of the said Court of Chancery, now vacant, shall be and the same is hereby abolished, 15 and there shall be paid to each Taxing Master the yearly Salary of One thousand Pounds.

Power to
Vice Chan-
cellor to
appoint
Trainbearer,
and to Lord
Justice of
Appeal to
appoint
Tipstaff.
Superannu-
ation.

27. It shall be lawful for the Vice Chancellor to appoint a Trainbearer at a yearly Salary of One hundred Pounds, and for the Lord Justice of Appeal to appoint a Trainbearer at a yearly 20 Salary of One hundred Pounds, and a Tipstaff at a yearly Salary of Fifty Pounds.

28. Any Person hereafter appointed an Officer of any Office in the said Court of Chancery, who shall resign his Office, shall be entitled to receive such Superannuation Allowance as the Com- 25 missioners of Her Majesty's Treasury shall think proper to direct; and in ascertaining and awarding the Amount of such Superannuation Allowance the said Commissioners shall take into consideration the whole Period during which any such Person shall have been permanently engaged in the said Office or in any other 30 Public Office, and shall proceed according to the Principles laid down by the "Superannuation Act, 1859;" and all Sums and Allowances which shall be so awarded and granted under the Authority aforesaid shall be paid and payable, and be charged and chargeable, in the same Way as is provided in respect of the Salaries of the said 35 Officers: Provided always, that the present Taxing Masters of the said Court and also any Person who shall have been employed in any of the Offices of the said Court of Chancery by this Act abolished, and who is or shall be appointed to any Office in said Court by or under this Act, shall be entitled to the same Retiring or Superannuation 40 Allowance, and upon the same Conditions under the Court of Chancery,

Chancery, Ireland, Regulation Act, 1850, as if his said Office had not been hereby abolished, and in case the Salary of the Office under this Act which he shall hold at the Time of his Retirement or Superannuation shall exceed the Salary of such abolished Office, then
 5 such Officer shall, in case he shall have served not less Three Years in such new Office, be entitled to receive such further Superannuation Allowance in respect of such Excess as the said Commissioners shall think proper to direct, and same shall be ascertained and awarded in manner herein-before mentioned.

10 **29.** It shall be lawful for the Commissioners of Her Majesty's Treasury, in awarding Retiring Allowances to the Officers of the Court of Chancery under "The Court of Chancery (Ireland) Regulation Act, 1850," to take into consideration the Period, if any, during which such Officers may have served in any Office under
 15 the Lord Chancellor, or in the Superior Courts of Common Law in Ireland, or in the Court of Bankruptcy and Insolvency, or the late Court of Bankruptcy or Court for the Relief of Insolvent Debtors in Ireland, in such Manner as they shall think proper.

CLAUSE E.
 In awarding Retiring Allowance Service in other Offices may be reckoned.

30. The Lord Chancellor, with the Advice and Concurrence of
 20 the Master of the Rolls and Vice Chancellor, or either of them, may make such Orders as he shall think fit, as well in relation to any Matter connected with the said abolished Offices, and not hereby otherwise provided for, as for carrying the Provisions of this Act into execution, and with the Consent of the Commissioners
 25 of Her Majesty's Treasury for regulating the Amount of Fees payable in the said Record and Writ Office and elsewhere under this Act, and may also make such other Rules and Orders, not being inconsistent with the Enactments and Provisions of this Act, as he shall think fit, for the Performance of the Business heretofore
 30 done in the said abolished Offices, and for establishing and settling the Practice of the Office hereby created.

Orders may be made for carrying Act into execution.

31. Any Order or Orders for the Time being made under this Act may from Time to Time be annulled, altered, or varied, and new Orders may from Time to Time be made for any of the
 35 Purposes of this Act, by the Lord Chancellor, with the like Advice, Concurrence, and Consent.

Orders under the Act may be varied.

32. Provided always, and be it enacted, That nothing in this Act contained shall be construed to affect the general Powers vested in the Lord Chancellor either solely or otherwise.

Act not to affect other Powers of Lord Chancellor.

CLAUSE F.
Holidays in
Courts of
Law to be
Holidays in
Court of
Chancery.

33. In addition to the Days now by Law kept as Holidays in the Court of Chancery and the Offices thereof, the several Days directed by "The Common Law Procedure Amendment Act, 1853," to be kept as Holidays in the Superior Courts of Law and the Offices thereof, shall be kept and observed as Holidays in the Court of 5 Chancery and the Offices thereof.

PART II.

OFFICERS OF THE SUPERIOR COURTS OF COMMON LAW IN IRELAND.

Enumeration
of abolished
Offices.

34. From and after the Commencement of this Act the Offices 10 of the Pleading Department, the Record Department, and the Rules Department, except the Office of Clerk of the Rules, in each of the said Superior Courts of Common Law, the Offices of Principal Assistant and Clerk to each of the Masters of the said Superior Courts of Common Law, the Office of Revenue Assistant in the 15 Court of Exchequer, and the Offices of General Purposes Clerks in each of the said Superior Courts of Common Law, shall be and the same are hereby abolished.

Duties of
Officers, &c.
of abolished
Offices to be
performed
by Officers
and Clerks
appointed
under Pro-
visions of
this Act.

35. From and after the Commencement of this Act the Duties and Authorities which, if this Act had not been passed, could have 20 been performed and exercised by the Officers, Assistants, and Clerks of the said abolished Offices shall be performed and exercised by the Officers and Clerks appointed under the Provisions of this Act, in such Manner as the Judges of the said Superior Courts of Com- 25 mon Law shall, by any General Order made as by this Act is pro- 25 vided, from Time to Time direct.

New
Officers.

36. From and after the Commencement of this Act there shall be in each of the said Superior Courts of Common Law, to conduct the Civil Business thereof beside the Master and Clerk of the Rules, the following Officers and Clerks; that is to say, a Pleadings and 30 Record Assistant, a Chief Clerk, and Two First-class, Two Second-class, and Two Third-class Clerks; and the said Officers and Clerks shall respectively discharge all such Duties as they shall from Time to Time be directed by any General Order made as by this Act is provided by the Judges of the said Superior Courts of Common 35 Law, and such Officers and Clerks shall hold their respective Offices by the same Tenure as an Officer serving in an established Capacity in the permanent Civil Service of the State, but shall be removable by Order of the Judges of the Court to which they shall be respectively attached, without stating any Cause for such 40 Removal.

37. Whereas

37. Whereas additional Duties will by this Act be imposed upon the present Masters of the Courts of Queen's Bench and Common Pleas, and it is expedient that Compensation for the same shall be made to them: Be it therefore enacted, That in case the present
 5 Salaries and Emoluments of the said present Masters, or either of them, shall not amount in the whole to the annual Sum of One thousand four hundred Pounds, there shall be paid to such Masters or Master while holding such Office such further annual Sum as, together with their or his present Salary and Emoluments, shall
 10 amount for each to the full Sum of *One thousand four hundred Pounds* a Year.

Proviso as to present Masters.

38. Save as is by the next preceding Section provided there shall be paid to the Master of each of the said Superior Courts of Common Law the yearly Salary of *Twelve hundred Pounds*, and to the Clerk
 15 of the Rules and Officers of each of the said Superior Courts of Common Law and to any Crier hereafter appointed in any of the said Courts, the several and respective Salaries in that Behalf set forth in the Schedule (A.) to this Act annexed.

Salaries of Masters and Officers.

39. And whereas it is expedient that the new Establishments
 20 of Pleadings and Record Assistant, Chief Clerk, and First, Second, and Third Class Clerks, should in the first instance consist of Persons employed in the Offices hereby abolished: Be it therefore enacted, That the Judges of each of the said Superior Courts of Common Law shall tender to the Officers, Assistants, and Clerks of
 25 the Offices by this Act abolished in their Court, of less than Forty Years Service, according to their respective Rank and Seniority at the Time of the passing of this Act, if they shall deem them competent for the permanent Discharge of such Duties, the Option of accepting the Offices of Pleadings and Record Assistant, of Chief
 30 Clerk, and of First, Second, or Third Class Clerk of less than Twenty-five Years Service; and any such Officer, Assistant, or Clerk who shall decline to accept any Office tendered to him as aforesaid shall be deemed to have resigned his said Office, and shall be entitled to receive such Retiring Allowance as is herein-after
 35 provided: Provided always, that any Officer, Assistant, or Clerk of any of the said abolished Offices appointed to any of the said Offices by this Act created in manner aforesaid shall hold his Office by the same Tenure as he held his former Office, and shall be entitled to receive a Salary not less than that which he enjoyed in virtue of
 40 his said former Office, and such Salary shall be paid to him out of the like Funds and in like Manner as the Salaries payable under this Act; and any Instrument by which any Person employed in any of the said abolished Offices shall be appointed to any of the

New Establishments to be formed from old.

above-mentioned Offices shall not be chargeable with any Stamp Duty.

Vacancies in Offices of Pleading and Record Assistant, and Chief Clerk, to be filled by Judges.

40. When a Vacancy happens in the Office of Pleadings and Record Assistant, or of Chief Clerk, the Judges of the Court in which there shall be such Vacancy shall appoint such Person filling 5 an Office in the said Court as, having regard to the existing Rights of Succession of the present Officers, to Length of Service, and Competency, they shall consider most fit to fill the Vacancy.

Vacancies in Offices of First, Second, and Third Class Clerks to be filled by Judges.

41. When a Vacancy happens in the Office of First or Second Class Clerk the Judges of the Court in which there shall be such 10 Vacancy shall appoint such Clerk of the Second or Third Class in the said Court as, having regard to the existing Rights of Succession of the present Officers, to Length of Service, and Competency, they shall consider most fit to fill the Vacancy; and when any Vacancy happens in the Office of Third-class Clerk the Judges of 15 the Court in which there shall be such Vacancy shall appoint a fit Person to fill the Vacancy: Provided always, that no Person shall be appointed to the Office of Third-class Clerk unless he shall have received a Certificate of Fitness from the Civil Service Commissioners, or shall have been employed in any of the Offices by this 20 Act abolished.

Officers of abolished Offices to continue Officers of Court to which they shall have been attached, and to receive Salaries if they discharge Duties imposed upon them.

42. Any Officer, Assistant, or Clerk of less than Forty Years Service, who on the Thirtieth of September One thousand eight hundred and sixty-seven shall hold any Office or Situation in any of the Superior Courts of Common Law which is by this Act abolished, 25 and who being of more than Twenty-five Years Service shall not have accepted, or being of less than Twenty-five Years Service shall not have been tendered the Option of accepting any of the Offices in said Courts by this Act created, shall continue to be deemed an Officer of the Court in which he shall have held such 30 Office or Situation, and shall hold by the same Tenure, and be entitled to the like Salary, as if the said Office or Situation had not been abolished, and shall, unless and until he shall retire pursuant to the Provisions of this Act, discharge such Duties suitable to his Position as an Officer of the Court connected with the 35 Business of the said Court, or the Arrangement and Classification of Records in any Public Record Office or other Place provided for the keeping of Records by Parliament, as shall be assigned to him by the Judges of the said Court, or by the Head of such Public Record Office, at the Instance of such Judges respectively; and every such 40 Person who shall decline to discharge such Duties when called upon to

to do so shall forfeit his Right to any Benefits to which he would otherwise be entitled under this Act.

43. So much of an Act passed in the Session of Parliament holden in the Seventh and Eighth Years of the Reign of Her present Majesty, intituled "An Act to regulate and reduce the Expenses of the Offices attached to the Superior Courts of Law in Ireland payable out of the Consolidated Fund," as shall be inconsistent with any of the Clauses or Provisions of this Act, and also Section Eight of the same Act, shall be and the same are hereby repealed; and so many and such Parts of the Clauses and Enactments of the said recited Act as may be applicable to the several Officers and Clerks appointed under this Act shall extend and be construed to extend and be applied to such Officers and Clerks respectively as fully and effectually as if such Clauses and Enactments had been repeated and re-enacted in this Act.

So much of 7 & 8 Vict. c. 107. as is inconsistent with this Act repealed, and such Parts as are applicable to extend to it.

44. It shall be lawful for the said Pleadings and Record Assistant, Chief Clerk, and Two First-class Clerks in each of the said Superior Courts of Common Law to take Affidavits or Affirmations in all Matters relating to the Business of the said Courts respectively, and to administer the necessary Oaths and Affirmations for that Purpose; and all such Oaths, Affidavits, and Affirmations shall be of the same Force, Validity, and Effect, and shall and may be filed and used and acted upon respectively, as fully and effectually, to all Intents and Purposes whatsoever, as if the same had been sworn or affirmed before the said Courts, or all or any of the Judges thereof respectively; and any Person who shall wilfully or corruptly swear or affirm anything false in any such Affidavits or Affirmations shall be subject to all Pains, Penalties, Punishments, and Disabilities for wilful and corrupt Perjury, in like Manner in all respects as if such Affidavits had been made in any of the said several Courts, or before all or any of the Judges thereof respectively.

CLAUSE G.
Pleadings and Record Assistant and certain other Clerks may administer Oaths, &c.

45. The Judges of the said Superior Courts of Common Law may make such Orders as they shall think fit, as well in relation to any Matter connected with the said abolished Offices as for carrying the Provisions of this Act into force, and may make such other Rules and Orders, not being inconsistent with the Provisions of this Act, as they shall think fit, for the Performance of the Business of the said abolished Offices, and for settling the Practice in the Offices of the said Superior Courts of Common Law, and may annul, alter, or vary such Orders as they shall think fit: Provided always, that no such Order shall take effect unless

Orders may be made and varied for carrying Act into execution.

and until it shall be approved and signed by Two of the Chief Judges and Five of the Puisse Judges of the said Superior Courts of Common Law.

Fees now payable to Masters to be henceforth received by Stamps.

46. *From and after the Commencement of this Act all and every the Fees authorized and made payable under and by virtue of the several Acts set forth in the Schedule (B.) to this Act annexed shall no longer be received in Money, but by a Stamp denoting the Amount of the Fee which would otherwise be payable; and where any Fee shall be payable in respect of any Document, such Stamp shall, at the Expense of the Party liable to pay the Fee, and in such Manner and under such Regulations as shall by any General Order made as by this Act directed, be stamped on the Vellum, Parchment, or Paper on which the Proceeding in respect whereof such Fee is payable is written, printed, or engrossed, or which may be otherwise used in reference to such Proceedings.*

Officers of Court of Queen's Bench (Crown Side) not to receive Fees otherwise than by Stamps.

47. *From and after the Commencement of this Act no Officer employed on the Crown Side of the Court of Queen's Bench in Ireland shall be entitled to receive and retain for his own Use any Fee, Emolument, or Reward whatsoever; and all and every the Fees payable for or by reason of any Matter or Thing done or to be done by the said Clerk of the Crown in his said Office, or in anywise appertaining to the Business thereof, now received in Money, shall no longer be received in Money, but by a Stamp denoting the Amount of the Fee which otherwise would be payable; and where any Fee shall be payable in respect of any Document, such Stamp shall, at the Expense of the Party liable to pay the Fee, and in such Manner and under such Regulations as shall be directed by any General Order under this Act, be stamped or affixed on the Vellum, Parchment, or Paper on which the Proceeding in respect whereof such Fee is payable is written, printed, or engrossed, or which may be otherwise used in reference to such Proceedings.*

Stamps to be issued by Commissioners of Inland Revenue.

48. *All Stamps by this Act directed to be substituted for Fees in any of the said Superior Courts of Common Law, or in the Crown Office of the said Court of Queen's Bench, shall be issued by and shall be under the Care and Management of the Commissioners of Inland Revenue; and the several Rules, Regulations, Provisions, Penalties, Clauses, and Matters contained in any Act now or hereafter to be in force with reference to Stamp Duties shall be applicable thereto.*

Salary of 800*l.* to the Clerk of the Crown.

49. *From and after the Commencement of this Act there shall be paid to the Clerk of the Crown of the Court of Queen's Bench in Ireland,*

Ireland, in lieu of any Salary, Fees, or Emoluments to which he may now be entitled under the Provisions of any Act of Parliament or otherwise howsoever, the yearly Salary of Eight hundred Pounds.

50. *From and after the Commencement of this Act there shall be paid to any Person employed as Chief Clerk to the said Clerk of the Crown appointed after the passing of this Act the yearly Salary of Two hundred Pounds, to be increased every Year of Service by the annual Sum of Ten Pounds, until the Yearly Salary of such Chief Clerk shall amount to the yearly Salary of Three hundred Pounds : Provided always, that the present Chief Clerk to the said Clerk of the Crown shall, so long as he shall continue in the said Office, be paid the yearly Salary of Three hundred Pounds in lieu of any Salary, Fees, or Emoluments to which he may be now entitled under the Provisions of any Act of Parliament or otherwise howsoever...*

Salary of the Chief Assistant Clerk.

51. *The said Clerk of the Crown may, in addition to the said Chief Clerk, employ a Clerk, removable at his Pleasure, to aid him in the Discharge of the Duties of his said Office ; and there shall be paid to such Clerk the yearly Salary of One hundred Pounds, to be increased every Year of Service by the annual Sum of Ten Pounds until the yearly Salary of such Clerk shall amount to the yearly Salary of One hundred and fifty Pounds ; and the Clerk at present in the Employ of the said Clerk of the Crown shall be the first such Clerk, and shall, so long as he shall continue in said Office, be paid the said full yearly Salary of One hundred and fifty Pounds.*

Power to employ additional Clerk.

52. *It shall be lawful for the Chief Clerk to the said Clerk of the Crown to take Affidavits, Affirmations, or Attestations upon Honour, in all Matters relating to the Business of the Crown Side of the Court of Queen's Bench in Ireland, and to administer the necessary Oaths, Affirmations, or Attestations for that Purpose ; and all such Oaths, Affidavits, Affirmations, and Attestations shall be of the same Force, Validity, and Effect, and shall and may be proceeded upon and dealt with in all respects, and to all Intents and Purposes, as if the same had been taken, made, or administered by or before the said Court, or any of the Judges thereof, or by or before the said Clerk of the Crown ; and any Person who shall wilfully or corruptly swear, affirm, or attest anything false in any such Affidavits, Affirmations, or Attestations so taken or administered by the said Chief Clerk shall be subject to all Pains, Penalties, Punishments, and Disabilities for wilful and corrupt Perjury, in like Manner as if such Affidavits, Affirmations, or Attestations had been made or taken by or in the said Court of Queen's Bench, or any of the*

Power to Chief Clerk to take Affidavits.

Judges thereof, or by or before the said Clerk of the Crown aforesaid.

Power to
Chief Clerk
to sign
Documents.

53. During the temporary Absence of the said Clerk of the Crown the affixing or signing the Name of the said Clerk of the Crown by the said Chief Clerk to all Orders, Writs, Pleadings, Instruments, and Proceedings, upon his being duly authorized in that Behalf by the said Clerk of the Crown so to do, but not otherwise, shall be as good, valid, and effectual as if the same were respectively affixed, or signed, or done in person by the Clerk of the Crown aforesaid.

10

Additional
Salary to
Registrar of
Consolidated
Nisi Prius
Court.

54. There shall be paid to the present Registrar or Clerk of Nisi Prius for the Consolidated Nisi Prius Court in Ireland, and to his Successors in the said Office, in addition to the annual Salary which is now payable to such Officer, the annual sum of *One hundred Pounds*.

15

Superannu-
ation.

55. Any Master, Clerk of the Rules, or other Officer of any of the said Superior Courts of Common Law, who shall resign his Office, shall be entitled to receive such Superannuation Allowance as the Commissioners of Her Majesty's Treasury shall think proper to direct; and in ascertaining and awarding the Amount of such Superannuation Allowance, the said Commissioners shall take into consideration the whole Period during which any such Person shall have been permanently employed in the said Office or in any other Public Office, and shall proceed according to the Principles laid down by "Superannuation Act, 1859;" and any Officer, Assistant, or Clerk of any Office by this Act abolished, who shall have served for a Period of not less than Forty Years, shall be entitled to receive during his Life an Annuity equal to his Salary at the Time of the Abolition of his Office, and all Sums and Allowances which shall be so awarded and granted under the Authority aforesaid shall be paid and payable and be charged and chargeable in the same Way as is provided in respect of the Salaries of the said Officers: Provided always, that in case Arthur Bushe, Esquire, Master of the Court of Queen's Bench, shall for any Cause retire from his said Office, he shall be entitled to receive yearly and every Year during his Life the Sum of Three hundred and eighty-four Pounds Twelve Shillings and Threepence, provided for him by the said Act of the Seventh and Eighth Years of the Reign of Her present Majesty, in addition to any Sum the Commissioners of Her Majesty's Treasury may award to him by way of Superannuation Allowance in respect of his said Office of Master.

Proviso as to
A. Bushe.
Esq., Master
of Court
of Queen's
Bench.

Salaries.

Salaries.

56. The Salaries of the Masters of the said Superior Courts of Common Law shall be charged upon and paid out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, and the Salary of the present Clerk of the Crown of the said Court of Queen's Bench shall, so long as he shall hold such Office, be also charged upon and paid out of the said Consolidated Fund; and all other Salaries under Parts I. and II. of this Act shall be paid out of such Funds as Parliament shall from Time to Time provide for such Purpose.

Funds for Payment of Salaries.

57. All Salaries under Parts I. and II. of this Act shall grow due from Day to Day, but shall be paid on the usual Quarter Days; and if any Person holding any of the said Offices shall die, resign, or be removed from the same, the Executor or Administrator of the Person so dying, or the Person so resigning or being removed, shall be entitled to receive a proportional Part of his Salary for the Time that such Person shall have lived or executed his Office since the last Payment.

Payment of Salaries.

58. In case it shall at any Time hereafter be made appear to the Satisfaction of the Commissioners of Her Majesty's Treasury, upon the Representation of the Lord Chancellor, or of the Judges of the Court of Common Law, as the Case may be, that there are not any Duties in which any Examiner, Assistant Clerk, or Registrar to any of the Masters in Ordinary of the Court of Chancery whose Office is abolished by the Court of Chancery (Ireland) Act (1867), or any Clerk or Assistant Clerk of the said Court of Chancery, or any Officer, Assistant, or Clerk of any of the Officers of the Superior Courts of Common Law whose Office is by this Act abolished, and who shall not be appointed to any other Office in said Courts respectively, or entitled to retire immediately under the Provisions of this Act, can be suitably employed, it shall be lawful for the said Commissioners, if they shall so think fit, to permit any such Person to retire from his Service, and to grant to him such special annual Allowance, and in such Manner as by the Seventh Section of the Superannuation Act, 1859, is provided in case of Persons whose Offices have been abolished.

CLAUSE H.
Power to Commissioners of Her Majesty's Treasury in certain Cases to grant Retiring Allowances to Officers whose Office is abolished.

59. And whereas by the Forty-fourth Section of "The Irish Bankrupt and Insolvent Act, 1857," it was (amongst others) enacted, That it should be lawful for the Lord Chancellor to direct that a Salary not exceeding Two hundred Pounds per Annum be

CLAUSE I.
Power to Commissioners of Her Majesty's Treasury to

[248.]

C

paid

increase
Salary of
certain
Officers
in Court of
Bankruptcy
and Insol-
vency.

paid to the Deputy Assistant to the Chief Registrar: And whereas by the Forty-sixth Section of the said Act it was (amongst others) enacted, that the Salaries of the Clerks or Assistants in the said Section mentioned should not in any Case exceed collectively the annual Sum of Four hundred Pounds: And whereas it is expedient 5 that there should be Power to increase the said Salaries in the event of their being deemed insufficient Remuneration for the Duties which [such Deputy Assistant Clerks or Assistants are required to perform: Be it therefore enacted, That it shall be lawful for the Judges of the Court of Bankruptcy and Insolvency 10 in Ireland, if it shall appear to them that the Salary of the said Deputy Assistant [or any of the said Clerks or Assistants is insufficient, with the Approval of the Lord Chancellor, to represent the Circumstances to the Commissioners of Her Majesty's Treasury, who are hereby empowered to increase such Salaries to such 15 Amounts as to them shall seem fit.

CLAUSE K.
Compen-
sation to
Registrar of
Judgments.

60. The Commissioners of Her Majesty's Treasury shall settle and adjust the Amount to be allowed to the present Registrar of Judgments in Ireland, so long as he shall hold the said Office, as Compensation for the Loss of the Fees of which he will be 20 deprived by the Operation of this Act, on an Average of Five Years prior to the passing of this Act, and the Sum so awarded shall be paid out of Monies to be voted by Parliament.

SCHEDULES referred to and made Part of the foregoing Act.

SCHEDULE I.

Setting forth the Number of Clerks for the Record and Writ Office.

Three First-class Clerks.

5 Three Second-class Clerks.

Four Clerks in the Notice Department.

SCHEDULE II.

10 Setting forth the yearly Salaries payable to the Persons appointed in the first instance Officers of the Record and Writ Office, and to their Successors respectively.

Office.	Salaries of Officers appointed in the first instance.	Salaries of Persons afterwards appointed.
15 Clerk of Records and Writs	J. Reilly, Esq., 1,300 <i>l.</i> -	1,000 <i>l.</i>
First Assistant - - -	M. J. Brady, Esq., 800 <i>l.</i> -	800 <i>l.</i>
Second Assistant - - -	600 <i>l.</i> - - -	600 <i>l.</i>
First-class Clerks - - -	300 <i>l.</i> , to be increased by 15 <i>l.</i> each Year of Service up to 400 <i>l.</i>	Same as in next Column.
20 Second-class Clerks - - -	200 <i>l.</i> , to be increased by 10 <i>l.</i> each Year of Service up to 300 <i>l.</i>	Same as in next Column.
25 Clerks in Notice Department.	185 <i>l.</i> - - - - 175 <i>l.</i> - - - - 155 <i>l.</i> - - - - 115 <i>l.</i> - - - -	200 <i>l.</i> 150 <i>l.</i> 150 <i>l.</i> 100 <i>l.</i>

SCHEDULE (A.)

Setting forth the yearly Salaries payable to the Clerk of the Rules and Officers of each of the said Superior Courts of Common Law, and to any Crier hereafter appointed in any of the said Courts.

5

Office.	Yearly Salary payable to	
	Clerks of the Rules and Officers appointed in the first instance.	Persons appointed afterwards.
Clerk of the Rules - - -	900 <i>l.</i>	700 <i>l.</i> , to be increased by 25 <i>l.</i> every Year of Service till Salary amounts to 900 <i>l.</i> 10
Pleadings and Record Assistant.	700 <i>l.</i>	600 <i>l.</i> , to be increased by 20 <i>l.</i> every Year of Service till Salary amounts to 700 <i>l.</i> 15
Chief Clerk - - -	500 <i>l.</i>	400 <i>l.</i> , to be increased by 20 <i>l.</i> every Year of Service till Salary amounts to 500 <i>l.</i> 20
Two First-class Clerks -	350 <i>l.</i> each	250 <i>l.</i> , to be increased by 15 <i>l.</i> every Year of Service till Salary amounts to 350 <i>l.</i> 25
Two Second-class Clerks -	250 <i>l.</i> each	200 <i>l.</i> , to be increased by 10 <i>l.</i> every Year of Service till Salary amounts to 250 <i>l.</i>
Two Third-class Clerks -	200 <i>l.</i> each	150 <i>l.</i> , to be increased by 10 <i>l.</i> every Year of Service till Salary amounts to 200 <i>l.</i> 30
Crier - - -	-	100 <i>l.</i>

SCHEDULE (B.)

35

Setting forth the Statutes referred to in Section 41. of this Act.

- 3 & 4 Vict. c. 105. s. 16.
- 11 & 12 Vict. c. 120.
- 12 & 13 Vict. c. 104. s. 17.
- 12 & 13 Vict. c. 107. s. 112.
- 13 & 14 Vict. c. 29.
- 13 & 14 Vict. c. 74. s. 10.
- 17 & 18 Vict. c. 55.

40

Courts of Law Officers (Ireland).

A

B I L L

[AS AMENDED IN COMMITTEE AND ON
RE-COMMITMENT]

To alter and regulate the Official Establishment of the High Court of Chancery and of the Superior Courts of Common Law in Ireland.

(Prepared and brought in by
*Mr. Attorney General for Ireland and
Lord Nass.*)

*Ordered, by The House of Commons, to be Printed,
11 June 1867.*

[Bill 248.]

Under 3 oz.

505

LORDS AMENDMENTS

TO THE

COURTS OF LAW OFFICERS (IRELAND) BILL.

Note.—The Page and Line refer to the Bill (254.) as printed by the Lords.

Page 12.

Line 18. After ("Duty") insert Clause (A.):

CLAUSE (A.) When and so often as any Vacancy happens in the Office of Master or Clerk of the Rules in any of the said Superior Courts of Common Law, by the Death, Resignation, or Removal of the Person holding such Office, the Chief Justices of the Court of Queen's Bench and the Court of Common Pleas respectively as to Vacancies occurring in those Courts respectively, and the Chief Baron of the Court of Exchequer as to Vacancies occurring in that Court, shall appoint some duly qualified Person to supply the Place of the Person so dying, resigning, or being removed. Supply of Vacancies.

Lines 20 and 21, 26 and 27, 31 and 32. Leave out ("Judges of the Court in which there shall be such Vacancy") and insert ("Chief Justices of the Court of Queen's Bench and the Court of Common Pleas respectively as to Vacancies occurring in those Courts respectively, and the Chief Baron of the Court of Exchequer as to Vacancies occurring in that Court")

Page 20.

Line 36. Leave out ("47") and insert ("48")

LORDS AMENDMENTS
TO THE
COURTS OF LAW OFFICERS
(IRELAND) BILL.

*Ordered, by The House of Commons, to be Printed,
9 August 1867.*

[Bill 309.]
Under 1 oz.



A

B I L L

TO

Enable the Courts of Referees to administer Oaths
and award Costs in certain Cases, in the same
Manner as Committees on Private Bills.

WHEREAS it is expedient to enable the Courts of Referees Preamble.
on Private Bills in certain Cases to administer Oaths
and to award Costs in the same Manner as Committees
on Private Bills :

5 Be it enacted by the Queen's most Excellent Majesty, by and
with the Advice and Consent of the Lords Spiritual and Temporal,
and Commons, in this present Parliament assembled, and by the
Authority of the same, as follows :

10 **1.** Any Court of Referees may examine Witnesses upon Oath
upon such Matters relating to any Bill as they may under any
Standing Order or other Order of the House of Commons be
empowered to inquire into, and for that Purpose may administer
an Oath to any such Witness. Power to
Court of
Referees to
administer
Oaths to
Witnesses.

15 **2.** Any Person examined as aforesaid, who shall wilfully give
false Evidence shall be liable to the Penalties of Perjury. Witnesses
falsely
deposing
liable to
Penalties of
Perjury.

[Bill 311.]

3. Any

Power to
award Costs.

3. Any Court of Referees on Private Bills, in Cases in which, under any Standing Order or other Order of the House, the Referees may be empowered to inquire into the whole Subject Matter of any such Bill, and to report it, with or without Amendments, to the House, may award Costs in the same Manner 5 as Select Committees on Private Bills are empowered to award Costs by an Act passed in the Twenty-eighth Year of the Reign of Her Majesty Queen Victoria, intituled "An Act for awarding Costs in certain Cases of Private Bills," and all the Provisions of the said Act shall apply in the Case of Bills so referred to the Referees. 10

Courts of Referees.

A

B I L L

To enable the Courts of Referees to administer Oaths and award Costs in certain Cases, in the same Manner as Committees on Private Bills.

(Prepared and brought in by
*Mr. Dodson, Colonel Wilson Patten, and
Mr. Woodd.*)

*Ordered, by The House of Commons, to be Printed,
10 August 1867.*

[Bill 311.]

Under 1 oz.



A

B I L L

TO

Remove some Defects in the Administration of the Criminal Law.

WHEREAS it is found that Delay and Inconvenience are Preamble,
frequently caused by the Provisions contained in the
First Section of the Act Twenty-second and Twenty-
third Victoria, Chapter Seventeen, in Cases not within the Mischief
5 for Remedy whereof the same Act was made and passed, and it is
expedient to restrict the Operation thereof :

Be it enacted by the Queen's most Excellent Majesty, by and
with the Advice and Consent of the Lords Spiritual and Temporal,
and Commons, in this present Parliament assembled, and by the
10 Authority of the same :

1. That the said Provisions of the said First Section of the said Limitation of
22 & 23 Vict.
c. 17.
Act shall not extend or be applicable to prevent the Presentment
to or finding by a Grand Jury of any Bill of Indictment containing
a Count or Counts for any of the Offences mentioned in the said
15 Act, if such Count or Counts be such as may now be lawfully
joined with the rest of such Bill of Indictment, and if the same
Count or Counts be founded (in the Opinion of the Court in or
before which the same Bill of Indictment be preferred) upon the
Facts or Evidence disclosed in any Examinations or Depositions
20 taken before a Justice of the Peace, in the Presence of the Person
[Bill 8.] A accused

accused or proposed to be accused by such Bill of Indictment, and transmitted or delivered to such Court in due Course of Law; and nothing in the said Act shall extend or be applicable to prevent the Presentment to or finding by a Grand Jury of any Bill of Indictment, if such Bill be presented to the Grand Jury 5 with the Consent of the Court in or before which the same may be preferred.

On Acquittal, &c. of Person indicted who has not been committed or held to Bail, Court may order Prosecutor to pay Costs to Accused if it think the Prosecution unreasonable.

2. Whenever any Bill of Indictment shall be preferred to any Grand Jury, whether under the Provisions of the Act Twenty-second and Twenty-third Victoria, Chapter Seventeen, or otherwise, against 10 any Person who has not been committed to or detained in Custody, or bound by Recognizance to answer such Indictment, and such Bill of Indictment shall be ignored by the Grand Jury, or, being found by them, the Person accused thereby shall be acquitted thereon, and the Court before which the same Indictment shall 15 be so preferred or tried shall be of opinion that such Indictment has been preferred without reasonable Cause, it shall be lawful for such Court, in its Discretion, to direct and order that the Prosecutor or other Person by or at whose Instance such Indictment shall have been preferred shall pay unto the accused Person the 20 just and reasonable Costs, Charges, and Expenses of such accused Person and his Witnesses (if any) caused or occasioned by or consequent upon the preferring of such Bill of Indictment, to be taxed by the proper Officer of the Court; and upon Nonpayment of such Costs, Charges, and Expenses within One Calendar Month 25 after the Date of such Direction and Order, it shall be lawful for any of the Superior Courts of Law at Westminster, or any Judge thereof, or for the Justices and Judges of the Central Criminal Court (if the Bill of Indictment has been preferred in that Court), to issue against the Person on whom such Order is made such 30 and the like Writ or Writs, Process or Processes, as may now be lawfully issued by any of the said Superior Courts for enforcing Judgments thereof.

Accused Person to be asked by Justice if he wish to call Witnesses. Their Depositions to be taken and returned to Court of Trial if he call any.

3. And whereas Complaint is frequently made by Persons charged with indictable Offences, upon their Trial, that they are 35 unable by reason of Poverty to call Witnesses on their Behalf, and that Injustice is thereby occasioned to them; and it is expedient to remove, as far as practicable, all just Ground for such Complaint: Therefore, in all Cases where any Person shall appear or be brought before any Justice or Justices of the Peace, charged with any 40 indictable Offence, whether committed within this Realm or upon the High Seas or upon Land beyond the Sea, and whether such Person appear voluntarily upon Summons, or has been apprehended with

with or without Warrant, or be in Custody for the same or any other Offence, such Justice or Justices, before he or they shall commit such accused Person for Trial or admit him to Bail, shall, immediately after obeying the Directions of the Eighteenth Section 5 of the Act Eleventh and Twelfth Victoria, Chapter Forty-two, demand and require of the accused Person whether he desires to call any Witness; and whatever the accused Person shall then say in answer to such Demand shall be taken down in Writing and signed by the said Justice or Justices, and kept with the Depo- 10 sitions of the Witnesses, and shall be transmitted with them in due Course of Law, and afterwards, upon the Trial of the said accused Person, the same may, if necessary, be given in Evidence against him without further Proof thereof; and if the accused Person shall, in answer to such Demand, call or desire to call any 15 Witness or Witnesses, such Justice or Justices shall, in the Presence of such accused Person, take the Statement on Oath or Affirmation, both Examination and Cross-examination, of those who shall be so called as Witnesses by such accused Person, and who shall know anything relating to the Facts and Circumstances of 20 the Case, or anything tending to prove the Innocence of such accused Person, and shall put the same into Writing; and such Depositions of such Witnesses shall be read over to and signed respectively by the Witnesses who shall have been so examined, and shall be signed also by the Justice or Justices taking the same, 25 and transmitted in due Course of Law with the Depositions, and the said Witnesses shall be bound by Recognizance to appear and give Evidence at the said Trial; and afterwards, upon the Trial of such accused Person, all the Laws now in force relating to the Depositions of Witnesses for the Prosecution shall extend and be 30 applicable to the Depositions of Witnesses hereby directed to be taken.

4. All the Provisions of the said Act Eleventh and Twelfth Victoria, Chapter Forty-two, relating to the summoning and enforcing the Attendance and Committal of Witnesses, and binding 35 them by Recognizance and Committal in Default, and for giving the accused Person Copies of the Examinations, and giving Jurisdiction to certain Persons to act alone, shall be read and shall have Operation as Part of this Act.

Provisions of
11 & 12 Vict.
c. 42. ex-
tended to
this Act.

5. The Court before which any accused Person shall be prose- 40 cuted or tried, or for Trial, before which he may be committed or bailed to appear for any Felony or Misdemeanor, is hereby authorized and empowered, in its Discretion, at the Request of any Person who shall appear before such Court on Recognizance to

If Witnesses
for Accused,
bound by Re-
cognizance,
appear at the
Trial, Court
may allow
Expenses.

give Evidence on behalf of the Person accused, to order Payment unto such Witness so appearing such Sum of Money as to the Court shall seem reasonable and sufficient to compensate such Witness for the Expenses, Trouble, and Loss of Time he shall have incurred or sustained in attending before the examining Magistrate, 5 and at or before such Court; and the Amount of such Expenses of attending before the examining Magistrate, and Compensation for Trouble and Loss of Time therein, shall be ascertained by the Certificate of such Magistrate, granted before the Attendance in Court, if such Magistrate shall think fit to grant the same; and the 10 Amount of all other Expenses and Compensation shall be ascertained by the proper Officer of the Court, who shall, upon Receipt of the Sum of One Shilling for each Witness, make out and deliver to the Person entitled thereto an Order for such Expenses and Compensation, together with the said Fee of One Shilling, upon 15 such and the same Treasurers and Officers as would now by Law be liable to Payment of an Order for the Expenses of the Prosecutor or Witnesses against such accused Person; and if the Accusation be of such Kind that the Court shall have no Power to order the Expenses of the Prosecutor, then upon the Treasurer or other 20 Officer in the Capacity of a Treasurer of the County, Riding, Division, City, Borough, or Place where the Offence of such accused Person may be alleged to have been committed, which Treasurer or other Officer is hereby required to pay the same Orders upon Sight thereof, and shall be allowed the same in his Accounts: 25 Provided always, that in no Case shall any such Allowances or Compensation exceed the Amount now by Law permitted to be made to Prosecutors and Witnesses for the Prosecution.

Power to
take Deposition of Person dangerously ill and not likely to recover, and to make same Evidence in certain Events, after Death of such Person.

6. And whereas by the Seventeenth Section of the Act Eleventh 33 and Twelfth Victoria, Chapter Forty-two, it is permitted under 30 certain Circumstances to read in Evidence on the Trial of an accused Person the Deposition taken in accordance with the Provisions of the said Act of a Witness who is dead, or so ill as to be unable to travel: And whereas it may happen that a Person dangerously ill, and unable to travel, may be able to give material 35 and important Information relating to an indictable Offence, or to a Person accused thereof, and it may not be practicable or permissible to take, in accordance with the Provisions of the said Act, the Examination or Deposition of the Person so being ill, so as to make the same available as Evidence in the event of his or her Death 40 before the Trial of the accused Person, and it is desirable in the Interests of Truth and Justice that Means should be provided for perpetuating such Testimony, and for rendering the same available in the event of the Death of the Person giving the same: Therefore,

fore, whenever it shall be made to appear to the Satisfaction of any Justice of the Peace that any Person dangerously ill, and in the Opinion of some registered Medical Practitioner not likely to recover from such Illness, is able and willing to give material
 5 Information relating to any indictable Offence, or relating to any Person accused of any such Offence, and it shall not be practicable for any Justice or Justices of the Peace to take an Examination or Deposition in accordance with the Provisions of the said Act of the Person so being ill, it shall be lawful for the said Justice
 10 to take in Writing the Statement on Oath or Affirmation of such Person so being ill, and such Justice shall thereupon subscribe the same, and shall add thereto by way of Caption a Statement of his Reason for taking the same, and of the Day and Place when and where the same was taken, and of the Names of the Persons
 15 (if any) present at the taking thereof; and if the same shall relate to any indictable Offence for which any accused Person is already committed or bailed to appear for Trial, shall transmit the same with the said Addition to the proper Officer of the Court for Trial at which such accused Person shall have been so committed or
 20 bailed; and in all other Cases he shall transmit the same to the Clerk of the Peace of the County, Division, City, or Borough in which he shall have taken the same, who is hereby required to preserve the same, and file it of Record; and if afterwards, upon the Trial of any Offender or Offence to which the same may relate,
 25 the Person who made the same Statement shall be proved to be dead, it shall be lawful to read such Statement in Evidence, either for or against the Accused, without further Proof thereof, if the same purports to be signed by the Justice by or before whom it purports to be taken, and provided it be proved to the Satisfaction
 30 of the Court that reasonable Notice of the Intention to take such Statement has been served upon the Person (whether Prosecutor or Accused) against whom it is proposed to be read in Evidence, and that such Person, or his Counsel or Attorney, had or might have had, if he had chosen to be present, full Opportunity of cross-
 35 examining the deceased Person who made the same.

7. And whereas Relief has been given by the Statute Twenty-fourth and Twenty-fifth Victoria, Chapter Sixty-six, to Persons refusing, from alleged conscientious Motives, to be sworn as Witnesses in Criminal Proceedings, and it is expedient to extend that
 40 Relief to Persons required to serve as Jurors: Therefore if any Person summoned or required to serve as a Juror in any Civil or Criminal Proceeding shall refuse or be unwilling, from alleged conscientious Motives, to be sworn, it shall be lawful for the Court or Judge, or other presiding Officer or Person qualified to
 [8.] A 3 administer

Provisions of
 24 & 25 Vict.
 c. 66. as to
 Witnesses
 who object
 to be sworn,
 extended to
 Jurors.

administer an Oath to a Juror, upon being satisfied of the Sincerity of such Objection, to permit such Person, instead of being sworn, to make his or her solemn Affirmation or Declaration in the Words following :

‘ I A.B. do solemnly, sincerely, and truly affirm and declare that 5
 ‘ the taking of any Oath is, according] to my Religious Belief,
 ‘ unlawful ; and I do also solemnly, sincerely, and truly affirm
 ‘ and declare,’ &c.

Which solemn Affirmation and Declaration shall be of the same Force and Effect, and if untrue shall entail all the same Con- 10
 sequences, as if such Person had taken an Oath in the usual Form ; and whenever in any legal Proceedings it is necessary or usual to state or allege that Jurors have been sworn, it shall not be necessary to specify that any particular Juror has made Affirmation or Declaration instead of Oath, but it shall be sufficient to state 15
 or allege that the Jurors have been “ sworn or affirmed.”

8. This Act shall come into operation on the Day of
 One thousand eight hundred and sixty-seven.

BILL

To remove some Defects in the Administration of the Criminal Law.

(Prepared and brought in by
 Mr. Russell Gurney and Mr. Coleridge.)

Ordered, by The House of Commons, to be Printed,
8 February 1867.

[Bill 8.]

Under 1 oz.



A

B I L L

[AS AMENDED IN COMMITTEE]

TO

Amend the Law relating to Criminal Lunatics.

WHEREAS it is expedient to amend the Law relating to Criminal Lunatics: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Preamble.

1. This Act may be cited for all Purposes as "The Criminal Lunatics Act, 1867."

Short Title of Act.

2. "Criminal Lunatic" shall mean for the Purposes of this Act any of the Persons following; that is to say,

Definition of Criminal Lunatic.

1. Any Person for whose safe Custody during Her Pleasure Her Majesty is authorized to give Order:

2. Any Person whom One of Her Majesty's Principal Secretaries of State is authorized by Law to direct to be removed to a Lunatic Asylum under any Act of Parliament:

3. Any Person sentenced or ordered to be kept in Penal Servitude, who may be shown to the Satisfaction of the Secretary of State to be unfit from Imbecility of Mind for Penal Discipline.

3. This Act shall not apply to Scotland or Ireland.

Application of Act.

[Bill 67.]

4. The

General Ap-
plication of
ss. 9. and
10. of
23 & 24 Vict.
c. 75.

4. The Enactments contained in the Ninth and Tenth Sections of the Act of the Session of the Twenty-third and Twenty-fourth Years of the Reign of Her present Majesty, Chapter Seventy-five, relating to the following Matters :

(1.) To the Power of the Secretary of State to permit a Lunatic 5
to be absent from the Asylum on Trial :

(2.) To the Expenses of Conveyance and Maintenance of Cri-
minal Lunatics :

shall apply to a Criminal Lunatic in whatever Asylum or Place
of Confinement he may be, and to such Asylum and Place of 10
Confinement, so far as regards such Lunatic, in the same Manner
as if such Asylum or Place of Confinement were an Asylum appro-
priated to Criminal Lunatics in pursuance of the last-mentioned
Act.

Power of
Secretary of
State to give
conditional
Order of
Discharge.

5. It shall be lawful for One of Her Majesty's Principal Secre- 15
taries of State to discharge absolutely or conditionally any Criminal
Lunatic.

Where any Criminal Lunatic has been discharged conditionally,
if any of the Conditions of such Discharge are broken, the
said Secretary of State may by Warrant, to be executed by any 20
Constable or other Peace Officer to whom such Warrant is delivered,
direct such Person to be taken into Custody, and to be conveyed to
the Place in which he was detained at the Time of his Discharge,
or to any other Place to which he might have been removed if no
Order for his Discharge had been given, and any Person so taken 25
into Custody shall revert in all respects to the same Position as he
was in at the Time when the Order of Discharge was given, and
shall be subject to be detained accordingly.

Criminal
Lunatic may
be removed
to a County
Asylum on
Expiration
of his Sen-
tence.

6. The Eighth Section of the said Act of the Session of the
Twenty-third and Twenty-fourth Years of the Reign of Her present 30
Majesty, Chapter Seventy-five, shall be repealed, and in place
thereof be it enacted : Where the Term of Punishment awarded
to any Criminal Lunatic confined in any Asylum or other Place
of Confinement for Criminal Lunatics expires before such Evidence
of his Sanity has been given as justifies his being discharged, 35
the following Consequences shall ensue ; that is to say,

1. If such Lunatic be confined in any Asylum or Place of
Confinement to which Lunatics may be sent in pursuance
of the Lunatic Asylums Act, 1853, he shall thenceforth
be deemed to be a Pauper Lunatic, and shall be in the 40
same Position in all respects as if he were a Lunatic who
immediately previous to the Expiration of his Term of
Punishment had been found wandering at large within the
Parish

Parish or Place where the Offence was committed in respect of which he became a Criminal Lunatic, and had been directed by a Justice, in pursuance of the Sixty-eighth Section of the Lunatic Asylums Act, 1853, to be received into the said Asylum or Place of Confinement as a Lunatic wandering at large, and a proper Person to be taken charge of and detained under Care and Treatment :

2. If such Lunatic be confined in any Asylum or Place of Confinement to which Lunatics cannot be sent in pursuance of the said Lunatic Asylums Act, 1853, the said Secretary of State may, by Order under his Hand, direct the Lunatic to be received into any Asylum or Place of Confinement for Lunatics into which a Justice might have directed him to be received in pursuance of the said Sixty-eighth Section of the Lunatic Asylums Act, 1853, if immediately previous to the Date of the Expiration of his Term of Punishment the Lunatic had been found wandering at large within the Parish or Place where the Offence was committed in respect of which he became a Criminal Lunatic, and the Justice had been satisfied that the Lunatic was a proper Person to be taken charge of and detained under Care and Treatment; and any Order made by the said Secretary of State in pursuance of this Section shall have the same Effect, and be obeyed by the same Persons, and subject them to the same Penalties in case of Disobedience, as an Order made by a Justice for the Reception of a Lunatic into an Asylum or other Place of Confinement for Lunatics in pursuance of the said Sixty-eighth Section of the said Lunatic Asylums Act, 1853; and such Lunatic when received into the said Asylum or Place of Confinement shall thenceforth be deemed to be a Pauper Lunatic, and shall be in the same Position in all respects as if he had been such wandering Lunatic as aforesaid directed to be received into the said Asylum or Place of Confinement in pursuance of the said Order of a Justice.

Criminal Lunatics.

A

B I L L

[AS AMENDED IN COMMITTEE]

To amend the Law relating to Criminal
Lunatics.

(Prepared and brought in by
Mr. Secretary Walpole and Mr. Attorney
General.)

*Ordered, by The House of Commons, to be Printed,
7 March 1867.*

[Bill 67.]

Under 1 oz.



A

B I L L

TO

Amend the Law relating to Criminal Lunatics.

WHEREAS it is expedient to amend the Law relating to Criminal Lunatics: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and
5 Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

1. This Act may be cited for all Purposes as "The Criminal Lunatics Act, 1867."

Short Title
of Act.

2. "Criminal Lunatic" shall mean for the Purposes of this
10 Act any of the Persons following; that is to say,

Definition of
Criminal
Lunatic.

1. Any Person for whose safe Custody during Her Pleasure
Her Majesty is authorized to give Order:

2. Any Person whom One of Her Majesty's Principal Secretaries
of State is authorized by Law to direct to be removed to a
15 Lunatic Asylum under any Act of Parliament:

3. Any Person sentenced or ordered to be kept in Penal Ser-
vitude, who may be shown to the Satisfaction of the Secretary
of State to be unfit from Imbecility of Mind for Penal
Discipline.

20 3. This Act shall not apply to Scotland or Ireland.

[Bill 41.]

Application
of Act.

4. The

General Ap-
plication of
ss. 9. and
10 of 23 &
24 Vict.
c. 75.

4. The Enactments contained in the Ninth and Tenth Sections of the Act of the Session of the Twenty-third and Twenty-fourth Years of the Reign of Her present Majesty, Chapter Seventy-five, relating to the following Matters :

(1.) To the Power of the Secretary of State to permit a Lunatic 5
to be absent from the Asylum on Trial :

(2.) To the Expenses of Conveyance and Maintenance of Criminal Lunatics :

shall apply to a Criminal Lunatic in whatever Asylum or Place of Confinement he may be, and to such Asylum and Place of 10
Confinement, so far as regards such Lunatic, in the same Manner as if such Asylum or Place of Confinement were an Asylum appropriated to Criminal Lunatics in pursuance of the last-mentioned Act.

Power of
Secretary of
State to give
conditional
Order of
Discharge.

5. In any Case where One of Her Majesty's Principal Secretaries 15
of State is empowered by Law to discharge absolutely a Criminal Lunatic, it shall be lawful for such Secretary of State to annex to the Order of Discharge such Conditions binding on the Person discharged, and on all other Persons as the said Secretary thinks expedient for the better Security of the Public. 20

On any Non-Compliance with the Conditions so annexed the said Secretary of State may by Warrant, to be executed by any Constable or other Peace Officer to whom such Warrant is delivered, direct such Person to be taken into Custody and to be conveyed to the Place in which he was detained at the Time of his Discharge, 25
or to any other Place to which he might have been removed if no Order for his Discharge had been given, and any Person so taken into Custody shall revert in all respects to the same Position as he was in at the Time when the Order of Discharge was given and shall be subject to be detained accordingly. 30

Any Criminal Lunatic acquitted of an Offence on the Ground of his having been insane at the Time of the Commission of such Offence, and ordered to be kept in strict Custody during the Plea-
sure of Her Majesty, may be dealt with under this Section as a Person whom the said Secretary of State is empowered by Warrant 35
to discharge absolutely or conditionally, and the said Secretary of State may issue an absolute or conditional Warrant for his Discharge accordingly.

Criminal
Lunatic may
be removed
to a County
Asylum on
Expiration
of his Sen-
tence.

6. The Eighth Section of the Act of the Session of the Twenty-
third and Twenty-fourth Years of the Reign of Her present Majesty 40
shall be repealed, and in place thereof be it enacted : Where the Term of Punishment awarded to any Criminal Lunatic confined in any Asylum or other Place of Confinement for Criminal Lunatics
expires

expires before such Evidence of his Sanity has been given as justifies his being discharged the Secretary of State may at any Time issue a Warrant for the Removal of such Person to such County Asylum as the said Secretary of State may think fit, and
5 such Lunatic shall be received into such Asylum in pursuance of such Warrant, and shall be deemed a Pauper Lunatic, and shall be subject in all respects, as regards his Continuance therein and Discharge therefrom, to the Provisions of the Act passed in the Session of the Sixteenth and Seventeenth Years of the Reign of Her
10 present Majesty, Chapter Ninety-seven and any Order which may have been made for the Maintenance of such Person in the Criminal Lunatic Asylum shall continue in force and be applicable to his Maintenance in the Asylum to which he is removed; and if no Order has been made for his Maintenance, or any existing Order
15 requires Alteration, *Two* Justices of the Peace for the County or other Jurisdiction in which such last-mentioned Asylum is situated shall make Order for that Purpose in manner prescribed by the said Act of the Session of the Sixteenth and Seventeenth Years of the Reign of Her present Majesty, Chapter Ninety-seven, and the Acts
20 amending the same; and if the Settlement of the Lunatic cannot be ascertained, then for the Purpose of any Order to be made under the said Acts the Lunatic shall be deemed to have been found in the County or other Jurisdiction in which the Prison is situated in which he was last confined.

Criminal Lunatics.

A

B I L L

To amend the Law relating to Criminal Lunatics.

(Prepared and brought in by
Mr. Secretary Walpole and Mr. Attorney
General.)

*Ordered, by The House of Commons, to be Printed,
20 February 1867.*

[Bill 41.]

Under 1 oz.



A

B I L L

TO

Grant and alter certain Duties of Customs and
Inland Revenue, and for other Purposes relating
thereto.

Most Gracious Sovereign,

WE, Your Majesty's most dutiful and loyal Subjects, the Preamble.
Commons of the United Kingdom of Great Britain and
Ireland, in Parliament assembled, towards raising the
5 necessary Supplies to defray Your Majesty's public Expenses, and
making an Addition to the Public Revenue, have freely and volun-
tarily resolved to give and grant unto Your Majesty the several
Duties herein-after mentioned; and do therefore most humbly
beseech Your Majesty that it may be enacted; and be it enacted
10 by the Queen's most Excellent Majesty, by and with the Advice
and Consent of the Lords Spiritual and Temporal, and Commons,
in this present Parliament assembled, and by the Authority of the
same, as follows :

1. There shall be charged, collected, and paid, for the Use of Her Grant of
Duties
specified
in Schedules
annexed.
15 Majesty, Her Heirs and Successors, the several Duties of Customs
and Inland Revenue respectively specified in the Schedules marked
respectively (A.), (B.), and (C.) to this Act; and the said Duties
shall respectively take effect at the Dates, and shall continue to be
charged, collected, and paid during the Periods respectively speci-
[Bill 113.] A fied

fied in that Behalf in the said Schedules respectively, and where no Date is specified for the Commencement of any Duty the same shall commence and take effect from the *passing of this Act*, and where no Period is specified for the Duration of any Duty the same shall continue to be charged, collected, and paid until Parliament shall otherwise order; and the said Schedules shall be deemed to be Part of this Act.

Provisions
of former
Acts to
apply to
Duties under
this Act.

2. All the Powers, Provisions, Allowances, Exemptions, Forfeitures, and Penalties contained in or imposed by any Act or Acts, or any Schedule thereto, relating to Customs Duties and Stamp Duties, and in force at the Time of the passing of this Act, and relating to the Duty of Income Tax, in force on the Fifth Day of April One thousand eight hundred and sixty-seven, shall respectively be in full Force as to the said Duties granted by this Act, so far as the same are applicable, and shall be observed, applied, allowed, enforced, and put in execution for and in the raising, levying, collecting, and securing of the said Duties, and otherwise in relation thereto, so far as the same shall not be repealed or superseded by and shall be consistent with the Provisions of this Act, as fully and effectually, to all Intents and Purposes, as if the same had been herein expressly enacted with reference to the said Duties respectively.

AS TO STAMP DUTY ON SEA INSURANCES.

Repeal of
Acts in Schedule (D.)

3. On the *passing of this Act* the Stamp Duties now payable for Policies of Sea Insurance shall cease and determine, and the several Acts and Parts of Acts specified in the Schedule marked (D.) to this Act annexed are hereby repealed, save so far as respects any Policy made prior to the passing of this Act, and as respects any Forfeiture or Penalty incurred in respect of any Offence against any Enactment so repealed.

Interpre-
tation of
Terms.

4. In this Act the Expression "Sea Insurance" means any Insurance (including Re-insurance) made upon any Ship or Vessel, or upon the Machinery, Tackle, or Furniture of any Ship or Vessel, or upon any Goods, Merchandise, or Property, of any Description whatever, on board of any Ship or Vessel, or upon the Freight of or any other Interest which may be lawfully insured in or relating to any Ship or Vessel; and the Word "Policy" means any Instrument whereby a Contract or Agreement for any Sea Insurance is made or entered into.

Commis-
sioners to
provide

5. The Commissioners of Inland Revenue shall provide Blank Policies, printed on Paper, in the Form set forth in Schedule (E.) to this

Customs and Inland Revenue.

this Act, and stamped to denote the Duty payable under this Act; and any Person may buy such Blank Policies, stamped with the Duty which he may require, at the Price of such Duty: Provided always, that before any such stamped Blank Policies shall be issued, and before any Vellum, Parchment, or Paper which may be brought to be stamped shall be delivered out stamped by any Officer of Inland Revenue, he shall mark or write thereon the Day, Month, and Year of such Issue or Delivery, and if he wilfully neglect so to do he shall forfeit the sum of *One hundred Pounds*.

10 **6.** The said Commissioners shall keep an Office within the City of London for the Distribution of Blank Policies, stamped as aforesaid, to Persons carrying on the Business of Insurance within the said City, and purchasing the same, subject to the usual Allowance made on Purchase of Stamps.

15	7. No Contract or Agreement for Sea Insurance shall be valid unless the same is expressed in a Policy; and every Policy shall specify the particular Risk or Adventure, the Names of the Subscribers or Underwriters, and the Sum or Sums insured; and in case any of the above-mentioned Particulars shall be omitted in	Contract for Insurance to be in Writing, and to specify certain Particulars.
20	any Policy, such Policy shall be null and void to all Intents and Purposes.	

8. No Policy shall be made for any Time exceeding *Twelve Calendar Months*, and every Policy which shall be made for any Time exceeding *Twelve Calendar Months* shall be null and void to all Intents and Purposes.

9. No Policy shall be pleaded or given in Evidence in any Court, or admitted in any Court to be good or available in Law or in Equity, unless duly stamped; and it shall not be lawful for the said Commissioners or any Officer of Inland Revenue to stamp any Policy at any Time after it is signed or underwritten by any Person, on any Pretence whatever, except in the Two Cases following; that is to say,

No Policy valid unless duly stamped.

35 1st. Any Policy of mutual Insurance having a Stamp or Stamps impressed thereon may, if required, be stamped with an additional Stamp or Stamps, provided that at the Time such additional Stamp or Stamps shall be required the Policy shall not have been signed or underwritten to an Amount exceeding the Sum or Sums which the Stamp or Stamps previously impressed thereon will warrant:

Exception in case of certain mutual Insurances ;

40 2nd. Any Policy made abroad, and chargeable with Duty by and in case
virtue of the Fifteenth Section of the Act of the Twenty- of Policies
[113.] A 2 made abroad.
eighth

eighth and Twenty-ninth Years of Her Majesty's Reign, Chapter Ninety-six, may be stamped within the Time specified in that Act.

Legal Alterations in Policies may be made under certain Restrictions.

10. Nothing in this Act shall extend or be construed to extend to prohibit the making of any Alteration which may lawfully be made in the Terms and Conditions of any Policy after the same shall have been underwritten; provided that such Alteration be made before Notice of the Determination of the Risk originally insured, and that it shall not prolong the Time covered by the Insurance thereby made, if less than *Six Months* beyond that Period, or if more than *Six Months* beyond the Period allowed by this Act, and that the Articles insured shall remain the Property of the same Person or Persons, and that no additional or further Sum shall be insured by reason or means of such Alteration.

15

Policies for Voyage and Time chargeable with Two Duties.

11. Where any Sea Insurance is made for a Voyage and also for Time, or to extend to or cover any Time beyond *Twenty-four Hours* after the Ship shall have arrived at her Destination and been there moored at Anchor, the Policy shall be chargeable with Duty as a Policy for a Voyage, and also with Duty as a Policy for Time.

As to Insurances by Carriers.

12. Where any Carrier by Sea or other Person shall, in consideration of any Sum of Money paid or to be paid for additional Freight or otherwise, agree to take upon himself any Risk attending Goods, Merchandise, or Property of any Description whatever while on board any Ship or Vessel, or engage to indemnify the Owner of any such Goods, Merchandise, or Property from any Risk, Loss, or Damage, such Agreement or Engagement shall be deemed to be a Contract for a Sea Insurance.

Penalty on assuring unless Policy duly stamped.

13. If any Person shall become an Assurer upon any Sea Insurance, or shall subscribe or underwrite, or otherwise sign or make, or enter into any Contract, Agreement, or Memorandum, for or of any Sea Insurance, or shall receive or contract for any Premium or Consideration for any Sea Insurance, or shall receive or charge, or take Credit in Account for any such Premium or Consideration as aforesaid, or any Sum of Money as or for any such Premium or Consideration as aforesaid, or shall wilfully or knowingly take upon himself any Risk, or render himself liable to pay, or shall pay or allow, or agree to pay or allow, in Account or otherwise, any Sum of Money upon any Loss, Peril, or Contingency relative to any Sea Insurance, unless such Insurance shall

be

be written on Vellum, Parchment, or Paper duly stamped, or if any Person shall be concerned in any fraudulent Contrivance or Device, or shall be guilty of any wilful Act, Neglect, or Omission, with Intent to evade the Duties payable on Policies under this Act, 5 or whereby the Duties may be evaded, every Person so offending shall for every such Offence forfeit the Sum of *One hundred Pounds*.

14. Every Person who shall make or¹ effect, or knowingly procure to be made or effected, any Sea Insurance, or shall give 10 or pay, or render himself liable to pay, any Sum of Money, Premium, or Consideration whatever in the Nature of a Premium for or upon any Sea Insurance, or shall enter into any Contract or Agreement whatever for any Sea Insurance, unless the same Insurance, Contract and Agreement for Insurance, respectively, 15 shall be written on Vellum, Parchment, or Paper, being first duly stamped, shall for every such Offence forfeit and pay the Sum of *One hundred Pounds*; and every Broker, Agent, or other Person negotiating or transacting any Sea Insurance contrary to the true Intent and Meaning of this Act, or writing any Agreement for any 20 Sea Insurance upon Vellum, Parchment, or Paper not duly stamped, shall for every such Offence forfeit the Sum of *One hundred Pounds*.

Penalty on Persons effecting Insurance unless duly stamped.

15. If any Person shall make or issue, or cause to be made or issued, any Document purporting to be a Copy of a Policy, and 25 there shall not be in existence, at the Time of such making or Issue, a Policy duly stamped whereof the said Document shall be a Copy, he shall for such Offence forfeit the Sum of *One hundred Pounds* in addition to any other Penalty which he may have incurred under this Act.

Penalty for issuing a Copy of Policy where no Policy.

30 16. It shall not be lawful for any Broker, Agent, or other Person negotiating or transacting or making any Sea Insurance to charge his Employer any Sum of Money for Brokerage or Agency, or for his Pains or Labour in negotiating, transacting, or making such Insurance, or writing the same, or for any Monies 35 expended or paid by way of Premium or Consideration in the Nature of a Premium for such Insurance, unless the same shall be written on Vellum, Parchment, or Paper, duly stamped; and all and every Sum and Sums whatever paid by such Employer on any such Account to any Broker, Agent, or other Person negotiating 40 or transacting or making any Insurance contrary to this Act shall be deemed to be paid without Consideration, and shall remain the Property of such Employer, his Executors, Administrators, or Assigns.

Brokerage not to be a legal Charge unless Policy duly stamped.

Allowance
may be made
in the Case
specified.

17. Where a Policy shall be inadvertently filled up in an incorrect or improper Manner, or be obliterated or otherwise spoiled and rendered unfit for Use, or shall be filled up for some Insurance which shall not be proceeded in, and the same shall not be signed by any Underwriter, but in no other Case, it shall be lawful for the said Commissioners to allow as spoiled, and to cancel, the Stamps on such Policy, provided that Application shall be made for the Allowance within *Six Calendar Months* after such Policy shall be spoiled or become useless; and the Enactments now in force with reference to the Allowance of spoiled Stamps shall, so far as the same are applicable, extend to the Allowance hereinbefore mentioned. 5 10

Officers of
Inland
Revenue
may be
authorized
to examine
Claims for
Allowances.

18. The said Commissioners may authorize any Officer or Officers of Inland Revenue to receive and examine the Claims made for such Allowance as aforesaid, and to take Affidavits and Affirmations relating thereto, and to administer the proper Oaths and Affirmations for that Purpose, and to do all or any Act or Acts respecting such Claims, which the Commissioners themselves are authorized to do. 15

AS TO INCOME TAX.

20

Sections
6 & 7 of
29 Vict. c.36.
not to apply,
&c.

19. Nothing herein contained shall continue or be construed to continue the Provisions contained in the Sixth and Seventh Sections of the Act passed in the Twenty-ninth Year of Her Majesty's Reign, Chapter Thirty-six; and for the Purposes of this Act the Year One thousand eight hundred and sixty-two mentioned in the Forty-third Section of the Act passed in the Twenty-fifth Year of Her Majesty's Reign, Chapter Twenty-two, shall be read as and deemed to mean the Year One thousand eight hundred and sixty-seven. 25

SCHEDULES.

SCHEDULE (A.)

CONTAINING the DUTIES of CUSTOMS granted by this Act.

The Duties of Customs now charged on Tea shall continue to be levied and
5 charged—

On and after the *First Day of August One thousand eight hundred and sixty-seven* until the *First Day of August One thousand eight hundred and sixty-eight*, on the Importation thereof into Great Britain and Ireland; that is to say,

	£	s.	d.
10 Tea - - - - - the lb.	0	0	6

SCHEDULE (B.)

CONTAINING the STAMP DUTIES granted by this Act.

s. d.

15 For every Policy of Sea Insurance for or upon any Voyage—
In respect of every full Sum of *One hundred Pounds* and in respect of any fractional Part of *One hundred Pounds* thereby insured - - - - - 0 3

For every Policy of Sea Insurance for Time—
20 In respect of every full Sum of *One hundred Pounds* and in respect of any fractional Part of *One hundred Pounds* thereby insured—

Where the Insurance shall be made for any Time not exceeding *Six Months* - - - - - 0 3

25 Where the Insurance shall be made for any Time exceeding *Six Months* and not exceeding *Twelve Months* - - - - - 0 6

But if the separate and distinct Interests of Two or more Persons shall be insured by One Policy for a Voyage or for Time, then the Duty of *Threepence* or the Duty of *Threepence* or *Sixpence*, as the Case may require, shall be
(30 charged thereon in respect of every full Sum of *One hundred Pounds* and every fractional Part of *One hundred Pounds* thereby insured upon any separate or distinct Interest.

SCHEDULE (C.)

CONTAINING the Duties of INCOME TAX granted by this Act.

For One Year commencing on the *Sixth Day of April One thousand eight hundred and sixty-seven*, for and in respect of all Property, Profits, and Gains mentioned or described as chargeable in the Act passed in the Sixteenth and 5 Seventeenth Years of Her Majesty's Reign, Chapter Thirty-four, for granting to Her Majesty Duties on Profits arising from Property, Professions, Trades, and Offices, the following Duties shall be charged; (that is to say,)

For every *Twenty Shillings* of the annual Value or Amount of all such Property, Profits, and Gains (except those chargeable under Schedule (B.) 10 of the said Act), the Duty of *Fourpence*:

And for and in respect of the Occupation of Lands, Tenements, Hereditaments, and Heritages chargeable under Schedule (B.) of the said Act, for every *Twenty Shillings* of the annual Value thereof—

In England the Duty of *Twopence*: 15

And in Scotland and Ireland respectively the Duty of *One Penny Halfpenny*:

Subject to the Provisions contained in Section Three of the Act Twenty-sixth Victoria, Chapter Twenty-two, for the Exemption of Persons whose whole Income from every Source is under *One hundred Pounds a Year*, 20 and Relief of those whose Income is under *Two hundred Pounds a Year*.

SCHEDULE (D).

CONTAINING the ENACTMENTS repealed by this Act.

Session and Chapter.	Title or Abbreviated Title.	Extent of Repeal.	
11 Geo. 1. c. 30. -	An Act for more effectual preventing Frauds and Abuses in the Publick Revenues, &c. &c.	Section 44.	25
19 Geo. 2. c. 37. -	An Act to regulate Insurance on Ships belonging to the Subjects of Great Britain, and on Merchandise or Effects laden thereon.	Section 4.	30
35 Geo. 3. c. 63. -	An Act for granting to His Majesty certain Stamp Duties on Sea Insurances.	The whole Act.	
39 & 40 Geo. 3. c. 72.	An Act to amend several Laws relating to the Duties on stamped Vellum, Parchment, and Paper.	Sections 8, 9, 10, 11, and 12.	35
54 Geo. 3. c. 133. -	An Act for enabling the Commissioners of Stamps to make Allowances for spoiled Stamps on Policies of Insurance in Great Britain, and for preventing Frauds relating thereto.	The whole Act.	40

Session and Chapter.	Title or Abbreviated Title.	Extent of Repeal.
54 Geo. 3. c. 144. -	An Act for better securing the Stamp Duties on Sea Insurances made in London, &c. &c.	The whole Act, except Sections 13 and 14.
5 9 Geo. 4. c. 49. -	An Act to amend the Laws in force relating to the Stamp Duties on Sea Insurances, &c. &c.	Section 1.
10 5 & 6 Vict. c. 82. -	An Act to assimilate the Stamp Duties Great Britain and Ireland, and to make Regulations for collecting and managing the same until the 10th day of October 1845.	Sections 22, 23, 24, 25, 26, 27, 28, 29, and 30.
7 Vict. c. 21. -	An Act to reduce the Stamp Duties on Policies of Sea Insurance, &c. &c.	Section 4 and the Schedule.
15 27 & 28 Vict. c. 56. -	An Act for granting to Her Majesty certain Stamp Duties, and to amend the Laws relating to the Inland Revenue.	Section 1.
23 & 29 Vict. c. 96. -	An Act to amend the Laws relating to the Inland Revenue.	Sections 8 and 9.

20

SCHEDULE (E.)

Form of Policy.

S.G.

In the Name of God. Amen.

£ As well in own Name, as for and in [the
Delivered the } Name and Names of all and every other Person or Persons
Day of } to whom the same doth, may, or shall appertain, in part or in
186 } all, doth make assurance and cause
No. } and them and every of them, to be insured, lost or not lost,
at and from

upon any Kind of Goods and Merchandises, and also upon the Body,
30 Tackle, Apparel, Ordnance, Munition, Artillery, Boat and other Furniture,
of and in the good Ship or Vessel called the
whereof is Master, under God for this present Voyage,

or whosoever else shall go for Master in the said Ship, or by whatsoever other
Name or Names the same Ship, or the Master thereof, is or shall be named
35 or called, beginning the Adventure upon the said Goods and Merchandises,
from the loading thereof aboard the said Ship

upon the said Ship, &c.

and shall so continue and endure, during her Abode there, upon the said
Ship, &c.; and further, until the said Ship, with all her Ordnance, Tackle,

Apparel, &c., and Goods and Merchandises whatsoever, shall be arrived at

upon the said Ship, &c., until she hath moored at Anchor Twenty-four Hours in good Safety, and upon the Goods and Merchandises until the same be there discharged and safely landed; and it shall be lawful for the said Ship, &c. in this Voyage to proceed and sail to and touch and stay at any 5
Ports or Places whatsoever

without Prejudice to this Insurance. The said Ship, &c., Goods and Merchandises, &c., for so much as concerns the Assured, by Agreement between the Assured and Assurers in this Policy, are and shall be valued at

10

Touching the Adventures and Perils which we the Assurers are contented to bear and do take upon us in this Voyage, they are, of the Seas, Men-of-War, Fire, Enemies, Pirates, Rovers, Thieves, Jettisons, Letters of Mart and Countermart, Surprisals, Takings at Sea, Arrests, Restraints and Detainments of all Kings, Princes, and People, of what Nation, Condition, or 15
Quality soever, Barretrie of the Master and Mariners, and of all other Perils, Losses, and Misfortunes that have or shall come to the Hurt, Detriment, or Damage of the said Goods and Merchandises and Ship, &c., or any Part thereof; and in case of any Loss or Misfortune it shall be lawful to the Assured, their Factors, Servants, and Assigns, to sue, labour, and travel for, 20
in, and about the Defence, Safeguard, and Recovery of the said Goods and Merchandises and Ship, &c., or any Part thereof, without Prejudice to this Insurance; to the Charges whereof we, the Assurers, will contribute each one according to the Rate and Quantity of his Sum herein assured. And it is agreed by us, the Insurers, that this Writing or Policy of Assurance shall be 25
of as much Force and Effect as the surest Writing or Policy of Assurance heretofore made in Lombard Street, or in the Royal Exchange, or elsewhere in London. And so we the Assurers are contented, and do hereby promise and bind ourselves, each one for his own Part, our Heirs, Executors, and Goods, to the Assured, their Executors, Administrators, and Assigns, for 30
the true Performance of the Premises, confessing ourselves paid the Consideration due unto us for this Assurance by the Assured
at and after the Rate of

In witness whereof, we the Assurers have subscribed our Names and Sums assured in

35

N.B.—Corn, Fish, Salt, Fruit, Flour, and Seed are warranted free from Average, unless general, or the Ship be stranded; Sugar, Tobacco, Hemp, Flax, Hides, and Skins are warranted free from Average under Five Pounds per Cent.; and all other Goods, also the Ship and Freight, are warranted free from Average, under Three Pounds per Cent., unless general, or the Ship be 40
stranded.

Customs and Inland Revenue.

A

BILL

To grant and alter certain Duties of
Customs and Inland Revenue, and
for other Purposes relating thereto.

(Prepared and brought in by
*Mr. Dodson, Mr. Chancellor of the Exchequer,
and Mr. Hunt.*)

*Ordered, by The House of Commons, to be Printed,
8 April 1867.*

[Bill 113.]

Linder 2 oz.



A

B I L L

TO

Alter certain Duties of Customs in the Isle of Man.

BE it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

- 5 **1.** In lieu of the Duties of Customs now chargeable on the Articles herein-after mentioned upon their Importation into the Isle of Man, the following Duties shall be charged on and after the Day of *One thousand eight hundred and sixty-seven*; that is to say,

Duties in lieu of present Duties.

		£	s.	d.
10	Tea - - - - - the lb.	0	0	4
	Tobacco, manufactured, of all Sorts, and Cigars - - - - - the lb.	0	3	6
	Wine; viz.,			
15	Containing less than Twenty-six Degrees of Proof Spirits verified by Sykes' Hydrometer, the Strength thereof having been ascertained by Test at Liverpool or some other Testing Port in Great Britain or			
20	Ireland - - - - - the Gallon	0	0	8
	Other Wines - - - - - the Gallon	0	1	8

- 2.** This Act may be cited as the "Isle of Man Customs Duties Short Title Act, 1867."
[Bill 253.]

Customs Duties (Isle of
Man).

A

B I L L

To alter certain Duties of Customs in
the Isle of Man.

(*Prepared and brought in by*
Mr. Dodson, Mr. Hunt, and Mr. Chancellor of
the Exchequer.)

Ordered, by The House of Commons, to be Printed,
15 July 1867.

[Bill 253.]

Under 1 oz.



A

B I L L

TO

Alter certain Duties, and to amend the Laws
relating to the Customs.

BE it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

- 5 1. For the Words "Fifty Tons," in the Forty-fourth Section of "The Customs Consolidation Act, 1853," relating to the Importation of Spirits, the Words "Forty Tons" shall be substituted, and also for the Words "Fifty Tons," in the Nineteenth Section of the Act, Twentieth and Twenty-first Victoria, Chapter Sixty-two, the Words
10 "Forty Tons" shall be substituted ; and the said Sections shall be read and construed as if the Words "Forty Tons" so substituted had in each Case been originally inserted therein and enacted thereby, instead of "Fifty Tons."

Reduction of
Restriction
of Size of
Ships im-
porting
Spirits.

2. Spirits may be imported in Bottles of a larger Size or Content than Three Pints, provided all such Bottles be properly packed in Cases, each of which Cases shall not contain a less Quantity than Two Gallons of Spirits, and bonâ fide form Part of the Cargo of the importing Ship, and be reported.

Spirits may
be imported
in Cases
containing
not less
than Two
Gallons, in
Bottles of
any Size.

[Bill 238.]

A

3. The

Extending
Provision of
75th Sect. of
16 & 17 Vict.
c. 107. as to
Expense of
boarding
Ships.

Act
2 & 3 Vict.
c. 71. s. 44.
not to apply
to Offences
against Cus-
toms Acts.
To limit the
Operation
of Sect. 2 of
23 & 24 Vict.
c. 110. to
Great Britain
and Ireland.
To substitute
simpler Pro-
visions as to
Goods per
Bill of Store.

3. The Seventy-fifth Section of "The Customs Consolidation Act, 1853," shall extend to and include all Vessels coming or brought into any Port in the United Kingdom, and in respect of which any Officer of Customs may be stationed in Charge, either on board thereof or otherwise, for the due Protection of the Revenue. 5

4. The Forty-fourth Section of the Act, Second and Third of Victoria, Chapter Seventy-one, shall not be deemed to apply to any Offence against this or any other Act relating to the Customs.

5. The Words "United Kingdom" in the Second Section of "The Customs Duties Consolidation Act, 1860," are hereby 10 declared to apply to and include only Great Britain and Ireland.

6. All British Goods brought back into the United Kingdom, being of such a Kind or Description as, if Foreign, would be liable to any Duty of Customs on Importation, shall be deemed to be Foreign, and liable to the same Duties, Rules, Regulations, and Restrictions as 15 Foreign Goods of the like Kind or Description; but if the same shall be brought back within Five Years from the Time of the Exportation thereof, and it shall be proved to the Satisfaction of the Commissioners of Customs that they are British Goods returned, the same may be entered by Bill of Store, containing such Particulars and in 20 such Manner and Form as the said Commissioners shall direct: Provided always, that all Corn, Grain, Meal, and Flour brought into the United Kingdom shall be deemed and taken to be Foreign Goods; and all Goods brought into the United Kingdom for which any Drawback of Excise or Customs shall have been received on 25 Exportation shall be deemed and treated as Foreign, unless admitted to Entry by special Permission of the Commissioners of Customs, and on Repayment of such Drawback; and all Foreign Goods on Re-importation into the United Kingdom, whether they shall have paid Duty on their First Importation or not, shall be liable to the 30 same Duties, Rules, Regulations, and Restrictions as if then imported for the First Time: Provided also, that if any British Goods brought into the United Kingdom bear the Brand or Mark of any British Manufacturer, the same shall be admitted to Entry as such, without a Bill of Store, if the Proprietor of such Brand or Mark, or his legal 35 Representative, shall give his Consent in Writing to the Delivery thereof.

Warehoused
Goods re-
moved to be
produced to
Officers of
Customs
before Entry.

7. When any warehoused Goods are removed under Bond from a Customs Warehouse at one Port to be warehoused at another Port, or for Exportation therefrom, such Goods shall, within Twenty-four 40 Hours after Arrival at such Port, and on or before the Entry thereof for

for Re-warehousing, Exportation, or otherwise, be produced to the proper Officers of Customs at such last-mentioned Port, although the Time prescribed in such Bond for the Removal, Re-warehousing, or Exportation of such Goods shall not have expired, and if not so produced the Bond under which the same are removed shall be forfeited, and may be put in Suit, in the same Manner as if the Regulation hereby made formed Part of the Condition of such Bond.

8. Upon the Importation into Great Britain or Ireland of the following Goods, and in lieu of any Duties now chargeable thereon, the following Duties shall be charged; namely, upon every Gallon of Sulphuric Ether Twenty Shillings, and upon every Gallon of Collodion Twenty-four Shillings, and upon Naphtha or Methylic Alcohol purified by means of Filtration or other Process Ten Shillings and Fivepence for every Gallon of the Strength of Proof ascertained by Sykes' Hydrometer, and so on in proportion for every greater or less Strength than the Strength of Proof, and for every greater or less Quantity than a Gallon.

To adjust Duties on Sulphuric Ether, Collodion, and purified Naphtha.

9. It is hereby declared, That the Words "any Spirits" in the Ninth Section of the Act of the Twenty-eighth and Twenty-ninth of Victoria, Chapter Ninety-eight, shall not authorize the Use of flavoured or compounded British Spirits in the fortifying of Wine in a Customs Warehouse.

Definition of Term "any Spirits" in 28 & 29 Vict. c. 98. s. 9.

10. Whenever any Goods are reported in Transit, and entered or required to be entered as Goods in Transit, the Person entering the same shall furnish to the proper Officer of the Customs a Shipping Bill, containing an accurate Account of the Quantity and Description of the Goods, and of the Value of such of them as were formerly chargeable with Duty at Value on Importation, together with a Duplicate of such Shipping Bill, and shall comply with the Rules and Regulations for the Time being of the Commissioners of Customs respecting the Shipment and Clearance of such Goods; and in case such Goods are found not to correspond with the Particulars contained in such Shipping Bill, the same may be detained until the Discrepancy is explained to the Satisfaction of the Commissioners of Customs, who may thereupon restore the same, on such Terms as they may deem proper; and any Person entering Goods in Transit who shall refuse or neglect to furnish such Shipping Bill and Duplicate, or either of them, to such Officer, shall forfeit a Penalty of Forty Shillings.

Shipping Bill and Duplicate for Goods in Transit.

11. If any Goods upon which any Drawback shall be claimed or allowed shall be brought to any Quay, Wharf, or other Place to be shipped for Exportation, or shall be actually shipped, and shall, on Examination by the proper Officers of Customs, be found not to

Drawback Goods not agreeing with Shipping Bill forfeited.

Persons
claiming
Drawback
thereon, or
more than
due, to forfeit
Treble Va-
lue or 100%.

agree in Quantity, Quality, and Description with the Entry in the Shipping Bill, Debenture, or other proper Document or Authority for Allowance of Drawback on Shipment, or shall be found to be of less Value for Home Use than the Amount of the Drawback claimed, all such Goods, and the Package containing the same, with 5 all other the Contents therein, shall be forfeited; and the Person or Persons entering such Goods, and claiming the Drawback thereon, or claiming more Drawback on any Goods than the Value thereof, or than shall be legally due thereon, shall in any and every such Case forfeit and pay a Sum of One hundred Pounds, or treble the Value 10 of such Goods so entered, or of the Amount of the Drawback claimed, at the Election of the Commissioners of Customs.

Goods on
board to
correspond
with Con-
tent.

12. If any Goods liable to Duty on Importation, or taken from the Warehouse to be exported, or entitled to Drawback on Exporta- 15 tion, or exported under Bond, which are enumerated in the Content of any Ship, shall not be duly shipped before the Departure of such Ship, or shall not be duly certified by the proper Officer as short shipped, such Goods shall be forfeited; or if any such Goods shall be taken on board such Ship, not being enumerated in such Content, the Master of such Ship shall forfeit the Sum of Five Pounds in 20 respect of every Package of such Goods; and if any Goods duly shipped on board such Ship shall be unshipped, or landed at any other Place than that for which they shall have been cleared, unless otherwise accounted for to the Satisfaction of the Commissioners of Customs, the Master of such Ship shall forfeit a Sum equal to treble 25 the Value of the Goods so landed.

Provisions of
the Customs
Acts relating
to the Ex-
portation of
Goods ap-
plicable to
Goods in
Transit.

13. The Provisions contained in the several Acts relating to the Customs with reference to the Exportation of warehoused Goods, shall be deemed to apply to and include Goods liable to Duties of Customs transhipped, and Goods exported on Drawback. 30

To prevent
Goods lying
at Risk on
the Quays or
Lighters for
an unrea-
sonable
Time.

14. If any Goods in respect of which Bond shall be given for the Exportation thereof in any Ship shall not be duly exported in such Ship, or be re-warehoused, within Fourteen Days after the final Clearance of such Ship, the same shall be forfeited, unless they shall in the meantime have been entered for Exportation under Bond in 35 some other Ship, in which Case the same shall be forfeited, unless exported in or re-warehoused within Fourteen Days after the final Clearance of such last-mentioned Ship.

British and
Irish Spirits
may be ex-
ported in

15. British or Irish Spirits may be exported from Great Britain or Ireland to Parts beyond the Seas, or be removed to the Isle of 40 Man, in Casks of the Content of Nine Gallons each at the least; but

but no British or Irish Spirits shall be removed or exported from the Isle of Man to any other Part of the United Kingdom, under pain of Forfeiture thereof.

Casks of Nine Gallons each.

16. Spirits to which any sweetening or colouring Matter or any other Ingredient may have been added in a Customs Warehouse, under the Provisions of the Seventh Section of an Act passed in the Twenty-eighth and Twenty-ninth Years of Her Majesty's Reign, Chapter Ninety-eight, may, notwithstanding anything to the contrary contained in the said last-mentioned Act, be removed for Exportation or Shipment as Stores, under such Regulations as the Commissioners of Customs shall appoint, to any other approved Customs Warehouse in the same or at any other Port, provided such Spirits be drawn off into Imperial or reputed Quart or Pint Bottles, and be packed in Cases containing not less than One Dozen Quarts or Two Dozen Pints.

Spirits sweetened, coloured, &c. may be removed from one Customs Warehouse to another in Bottles.

17. Wine for Exportation may be fortified in Bond, by Permission of the Commissioners of Customs, to a greater Degree of Strength than Forty per Cent. of Proof Spirit, if it appear to them to be necessary for the Preservation of such Wine during the Voyage,

Wine may be fortified to more than 40 per Cent. for Exportation.

18. Whenever any Officer or other Person in the Service or Employment of the Customs, and having a Commission or Deputation from the Commissioners of that Revenue, shall cease to be employed in such Service, and shall, for the Space of One Week after he shall cease to be in such Service or Employment, neglect or refuse to deliver up such Commission or Deputation, every such Person shall be liable to be proceeded against for such Offence before any Justice of the Peace, who is hereby authorized, upon Conviction of such Offender, to sentence him to Imprisonment in any Gaol until the Offender shall deliver up such Commission or Deputation, or otherwise account for the same to the Satisfaction of the Commissioners of Customs.

Officers of Customs to deliver up Deputations on Retirement, &c.

19. Any Moneys, Chattels, or other valuable Securities which shall or may be received by any Officer or Clerk in the Service of the Customs, either as Duties of Customs, or under or by virtue of any Statute, or by the Order or Direction of the Commissioners of Customs, or in virtue of his Office or Employment, or otherwise, for the Use and Service of Her Majesty or of any Public Department, shall be deemed to be Moneys, Chattels, or valuable Securities for the Public Service within the Meaning of the Act of the Second of William the Fourth, Chapter Four.

Certain Moneys, &c. deemed within Meaning of 2 W. 4. c. 4.

Boats under
100 Tons to
be marked,
per 207th
Section
of "The
Customs
Consolida-
tion Act,
1853."

Police au-
thorized to
co-operate
with
Customs.

20. The Word "Boat" in the Two hundred and seventh Section of "The Customs Consolidation Act, 1853," shall be deemed to mean, apply to, and include any Vessel or Boat, whether decked, partially decked, or open, not being of the Burden of One hundred Tons, and not belonging to any Ship. 5

21. The Powers of Seizure and Detention conferred by the Two hundred and twenty-third Section of "The Customs Consolidation Act, 1853," upon Officers of Customs or Excise, and others, shall extend to and be conferred upon the Constables and Police Officers of any County, City, or Borough in the United Kingdom, with the Sanction of the Magistrates having Jurisdiction therein. 10

Persons
in Prison
against
whom Infor-
mations are
exhibited
for Offences
against the
Customs
Laws to be
brought up
by Habeas
Corpus at
the Hearing
of such In-
formations.

22. Where any Person against whom an Information shall be exhibited before a Justice of the Peace for any Offence committed by such Person against any Act relating to the Customs shall be in Prison on any Account whatever at the Time appointed for the Hearing of such Information, the Commissioners of Customs shall cause to be obtained and issued out of the Court of Exchequer in England, Scotland, or Ireland, as the Case may require, a Writ of Habeas Corpus directed to the Governor or Keeper of the Prison in which such Person shall be confined, commanding him to convey such Person to the Place of Hearing to be specified in such Writ, in order that the said Person may answer the said Information and attend the Trial thereof; and such Writ of Habeas Corpus shall be issued out of either of the said Courts, on Application made by the Solicitor for the Customs, on behalf of the said Commissioners, to any Baron or Judge of any of the Superior Courts of Law in England, Scotland, and Ireland respectively; and it shall be lawful for the Justices or Magistrate before whom any such Information shall be brought for Adjudication to refuse to proceed with the said Information in the Absence of the Person charged, when satisfactory Proof shall be made that such Person is confined in Prison. 15 20 25 30

Officers may
search Pre-
mises by
Warrant
granted on
reasonable
Causes shown.

23. If any Officer of Customs shall have reasonable Cause to suspect that any uncustomed or prohibited Goods are harboured, kept, or concealed in any House or other Place either in the United Kingdom or the Channel Islands, and it shall be made to appear by Information on Oath before any Justice of the Peace in the United Kingdom, or any Deemster, Jurat, Bailiff, or other Magistrate in the Channel Islands, it shall be lawful for such Justice, Deemster, Jurat, Bailiff, or other Magistrate, by special Warrant under his Hand, to authorize such Officer to enter and search such House or other Place, and to seize and carry away any such uncustomed or prohibited Goods 35 40

Goods as may be found therein; and it shall be lawful for such Officer, and he is hereby authorized, in case of Resistance, to break open any Door, and to force and remove any other Impediment or Obstruction to such Entry, Search, or Seizure as aforesaid; and such
 5 Officer may, if he see fit, avail himself of the Service of any Constable or Police Officer to aid and assist in the Execution of such Warrant, and any Constable or other Police Officer is hereby required when so called upon to aid and assist accordingly.

24. All Gold and Silver Plate which shall be imported from
 10 Foreign Parts, and which shall be sent to any Assay Office in the United Kingdom at which Gold and Silver Plate is now or shall at any Time hereafter be by Law required to be assayed, and which
 when so sent shall be then assayed, tested, stamped, and marked, shall, in addition to the Marks for the Time being used at such Assay
 15 Office for the Purpose of marking British Plate, be marked with the further Mark of the Letter F on an oval Escutcheon, in order to denote that such Gold or Silver Plate was imported from Foreign Parts, and was not wrought or made in England, Scotland, or Ireland; and the Wardens and Officers in such and every such Assay Office,
 20 and the Persons employed by them, shall have Power to impress and mark, and shall impress and mark, such further and additional Mark, before such Plate shall be delivered out from such Assay Office.

To impose distinctive Mark on Foreign Plate assayed.

25. The Commissioners of Customs may from Time to Time
 establish Regulations as to the Quantities, Custody, and Disposal
 25 of Tobacco, Spirits, and Tea to be used as Stores by the Master, Crew, and Passengers of any Vessel about to depart from the Channel Islands to any Port in the United Kingdom, or to any Fishing Grounds at Sea, having regard to the Time that will be occupied in the contemplated Voyage, the Tonnage of the Vessel,
 30 and the Number of her Crew and Passengers, the Particulars of such Stores to be noted on the Clearance of the Vessel; and if they or any Part thereof be landed in the United Kingdom from the said Vessel, contrary to the Regulations so established, or without the Knowledge or Permission of the proper Officer of the Customs, they
 35 shall be forfeited, together with the Vessel from which such Stores may have been so landed or unshipped, and the Master of such Vessel shall, on Proof of any such Landing or Unshipment, forfeit the Penalty of Twenty Pounds.

Stores for Vessels departing from the Channel Islands.

26. The several Parts of Acts set forth in the Schedule to this
 40 Act annexed are hereby repealed to the Extent to which the same are by such Schedule expressed to be repealed.

Parts of Acts set forth in Schedule repealed.

Registry
in Channel
Islands.

27. This Act shall be registered in the Royal Courts of the Islands of Guernsey and Jersey respectively ; and the said Royal Courts respectively shall have full Power and Authority and are hereby required to register the same.

Date and
Title of Act.

28. This Act shall come into operation on the Day of the 5 passing thereof; and in citing it in other Acts of Parliament, and in legal Instruments, it shall be sufficient to use the Expression "The Customs Amendment Act, 1867."

SCHEDULE of Parts of Acts to be repealed.

Date of Act.	Title of Act.	Extent of Repeal.
16 & 17 Vict. c. 107.	"The Customs Consolidation Act, 1853."	So much of the Table of Prohibitions and Restriction Inwards of Section 44. as relates to Parts of Articles as therein described, and so much of the said Table as relates to Silk and Manufactures of Silk as therein also described, and so much of the Second Division of the said Table as permits Goods therein mentioned to be imported in Transit. Sections 65, 79, 143, 176, 177, and 178.
5		
10		
"	"	
15	"	The following Words in Section 234, viz., "or of any Tea or Silk, such "Tea or Silk being of the Value "of Ten Pounds or upwards," and "or of any such Tea or Silk."
20	"	So much of the said Table containing the Words "or in Glass "Bottles or Stone Bottles not "exceeding the Size of Three "Pint Bottles, and being really "Part of the Cargo of the importing Ship, and duly reported."
25	"	So much of the 130th Section of "The Customs Consolidation Act, 1853," as requires a Comptroller of Customs to join with the Collector in preparing and making the Debentures and Certificates therein prescribed.
"	"	
30		The Words "if she have any such "Stores on board," in the last Paragraph of Section 145.
35	"	Sections 12 and 20.
18 & 19 Vict. c. 96.	"The Supplemental Customs Consolidation Act, 1855."	
40	"The Customs Duties Consolidation Act, 1860."	So much thereof as imposes a Duty of 17. 1s. per Pair on the Importation of Dice.
23 & 24 Vict. c. 110.		

Customs Revenue.

A

BILL

To alter certain Duties, and to amend
the Laws relating to the Customs.

(Prepared and brought in by
*Mr. Dodson, Mr. Haub, and Mr. Chancellor of the
Exchequer.*)

*Ordered, by The House of Commons, to be Printed,
9 July 1867.*

[Bill 238.]

Under 2 oz.



A

B I L L

TO

Provide for the Appointment of the Officers and
Servants of District Lunatic Asylums in Ireland,
and to alter and amend the Law relating to the
Custody of dangerous Lunatics and dangerous
Idiots in Ireland.

WHEREAS under the Provisions of an Act passed in the Preamble,
Session of Parliament holden in the First and Second
Years of the Reign of His late Majesty King George the
Fourth, intituled “An Act to make more effectual Provision for the 1 & 2 G. 4.
5 “Establishment of Asylums for the Lunatic Poor, and for the Cus- c. 33.
“tody of Insane Persons charged with Offences, in Ireland,” and of
the several Acts amending the same, District Lunatic Asylums have
been established in Ireland:

And whereas Doubts have arisen as to the Person or Persons by
10 whom the Officers and Servants of such District Lunatic Asylums
should be appointed:

And whereas it is expedient to remove the same, and to provide
for the Appointment of the said Officers and Servants:

And whereas an Act was passed in the First Year of the Reign
15 of Her present Majesty, intituled “An Act to make more effectual 1 Vict. c. 27.
“Provision for the Prevention of Offences by Insane Persons in
“Ireland,” by which it is, amongst other things, enacted, that if
[Bill 242.] A any

any Person should be discovered and apprehended in Ireland under Circumstances denoting a Derangement of Mind, and a Purpose of committing some Crime for which, if committed, such Person would be liable to be indicted, it should be lawful for any Two Justices of the Peace of the County, County of a City, County of 5 a Town, City or Town, and Liberties, before whom such Person might be brought, to call to their Assistance any legally qualified Physician, Surgeon, or Apothecary; and if upon View and Examination of the said Person so apprehended, or from other Proof, the said Justices should be satisfied that such Person was a dangerous 10 Lunatic or a dangerous Idiot, it should be lawful for the said Justices, by Warrant under their Hands and Seals, to commit such Person to the Gaol of such County, County of a Town, City or Town, and Liberties, there to be kept in strict Custody until or unless such Person should be discharged in manner by the said Act 15 provided :

8 & 9 Vict.
c. 107.

And whereas the said Act was amended by another Act, passed in the Eighth and Ninth Years of the Reign of Her present Majesty, intituled "An Act for the Establishment of a Central Asylum for " Insane Persons charged with Offences in Ireland; and to amend 20 " the Act relating to the Prevention of Offences by Insane Persons, " and the Acts respecting Asylums for the Insane Poor, in Ireland; " and for appropriating the Lunatic Asylum in the City of Cork to " the Purposes of a District Lunatic Asylum :"

And whereas it is expedient further to amend the same, and to 25 make other and better Provision for the safe Custody of dangerous Lunatics and dangerous Idiots in Ireland :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and 30 by the Authority of the same, as follows :

Interpreta-
tion :

1. In this Act the Words following shall have the Meanings herein-after assigned to them :

" Lord Lieu-
tenant :"

" Lord Lieutenant " shall mean Lord Lieutenant of Ireland and the Lords Justices or other Chief Governors or Governor of 35 Ireland for the Time being :

" Officer."

" Officer " shall include Resident Medical Superintendent, Consulting and Visiting Physician, Chaplains, Matron, Apothecary, Clerk and Storekeeper, Schoolmaster and Schoolmistress of any District Lunatic Asylum, and any Person discharging any 40 Duties in any such Asylum whom the Lord Lieutenant by Order in Council shall so designate.

Power to
Lord Lieu-
tenant in

2. It shall be lawful for the Lord Lieutenant from Time to Time, by Order in Council, to determine the Staff of Male and Female Officers

Officers and Servants of any District Lunatic Asylum, and to direct that the same shall be increased, diminished, or altered, as he shall think fit, and to appoint the Salaries and define the Duties of the said Officers and Servants, and to make Rules and Regulations for the Control and Guidance of the said Officers and Servants.

Council to determine Staff of Officers and Servants of District Lunatic Asylum.

3. When any Vacancy happens in the Office of Resident Medical Superintendent or Visiting Physician of any District Lunatic Asylum in Ireland it shall be lawful for the Lord Lieutenant to appoint a Person duly registered under the Twenty-first and Twenty-second Victoria, Chapter Twenty, to fill such Vacancy; and when any Vacancy occurs in any other Office in any such Asylum the Governors of the same shall, with the Approval of the Lord Lieutenant, appoint a fit Person to fill the same; and the said Governors shall appoint all the Servants necessary for such Asylum; and when any District Lunatic Asylum shall hereafter be established, the Officers and Servants of the same shall respectively be appointed in like Manner.

Appointment of Resident Medical Superintendent and Visiting Physician and other Officers and Servants.

4. The Appointment of any Officer by the Governors of any District Lunatic Asylum shall in the first instance be probationary only; and the same shall require to be confirmed by the Governors at a Meeting to be held not sooner than Three nor later than Six Calendar Months from the Date of the probationary Appointment; and every Appointment confirmed by the Governors shall be laid before the Lord Lieutenant for his Approval; and if the Governors shall not, at a Meeting held within the Period of Six Months herein provided, confirm such probationary Appointment, or if they shall at such Meeting refuse to confirm the same, or if the Lord Lieutenant shall refuse to approve of any Appointment so confirmed, and shall notify such Refusal to the Governors, the Officer so appointed shall cease to hold his Office, and the same shall become vacant from the Expiration of such Period of Six Months, or from the Date of the Meeting at which the Governors shall so refuse to confirm the Appointment, or from such Notification by the Lord Lieutenant, as the Case may be; and no Officer the Approval of whose Appointment shall have been refused by the Lord Lieutenant shall be eligible for Re-appointment.

Appointment of certain Officers to be in the first instance probationary only.

5. If the Governors of any District Lunatic Asylum shall neglect to appoint any Officer or Servant whom they are empowered to appoint, and who shall be required to complete the Staff for the Time being determined on for any such Asylum, for the Space of Two Calendar Months after they shall have been called upon to make such Appointment, by Writing under the Hand of One of the

Lord Lieutenant shall appoint Officers in default of Governors. 19 & 20 Vict. c. 68. s. 18.

4 *District Lunatic Asylums Officers (Ireland).*

Inspectors of Lunatic Asylums, the Lord Lieutenant shall appoint such Officer.

Tenure of
Office of
Officers and
Servants.

Power to
remove
Officers.

6. All Officers of District Lunatic Asylums appointed by the Lord Lieutenant shall hold Office during the Pleasure of the Lord Lieutenant; and all the Officers of any District Lunatic Asylum 5 appointed by the Governors of such Asylum as aforesaid may be removed by the said Governors with the Approbation of the Lord Lieutenant, and any Servant in any such Asylum may be dismissed by the Governors thereof.

Confirma-
tion of Ap-
pointments
hitherto
made.

7. All Appointments made by the Lord Lieutenant to any 10 Office or Situation in any District Lunatic Asylum in Ireland before the passing of this Act shall be valid and effectual.

After pass-
ing of this
Act no
dangerous
Lunatic or
dangerous
Idiot to be
committed to
any Gaol in
Ireland.

8. From and after the passing of this Act it shall not be lawful for Two Justices to commit to any Gaol in Ireland any Person proved to their Satisfaction to be a dangerous Lunatic or dangerous 15 Idiot, anything in the recited Acts to the contrary notwithstanding.

Dangerous
Lunatics and
dangerous
Idiots to be
sent to
Asylums.

9. Whenever any Person shall be brought before any Two Justices of any County, County of a City, County of a Town, City or Town, and it shall be proved to their Satisfaction that such Person was discovered and apprehended under Circumstances denoting a Derange- 20 ment of Mind, and a Purpose of committing some Crime for which, if committed, such Person would be liable to be indicted, the said Justices shall call to their Assistance the Medical Officer of the District, who shall examine such Person; and if such Medical Officer shall certify that such Person is a dangerous Lunatic or a dangerous 25 Idiot, it shall be lawful for the said Justices, by Warrant under their Hands and Seals, to direct that such Person shall be removed to the Lunatic Asylum established either wholly or in part for the County, County of a City, or County of a Town in which he shall have been apprehended; and every such Person so removed 30 shall remain under Confinement in such Asylum, and be there maintained, in like Manner and subject to the same Conditions as if he had been removed to such Asylum by virtue of the Warrant of the Lord Lieutenant under the Provisions of the recited Act of the First Year of Her present Majesty, Chapter Twenty-seven: 35 Provided always, that nothing herein contained shall be construed to restrain or prevent any Relation or Friend from taking such Person under his own Care and Protection if he shall enter into sufficient Recognizance for his or her peaceable Behaviour or safe Custody before Two Justices of the Peace, or the Chairman of the Court of 40 Quarter Sessions of the County in which such Person shall be con-
fined

fined, or One of the Judges of Her Majesty's Superior Courts at Dublin.

10. Whenever it shall be duly certified by Medical Certificate that any Person removed to such Lunatic Asylum as aforesaid has be-
5 come of sound Mind, or has ceased to be or is not a dangerous Lunatic, or is not a dangerous Idiot, such Person may lawfully be discharged from such Lunatic Asylum without the Order of the Lord Lieutenant, as in the Case of other Lunatic Poor.

Persons re-
moved to
Lunatic
Asylums
may be dis-
charged on
Medical
Certificate.
9 & 10 Vict.
c. 115. s. 3.

11. This Act shall commence and have effect on the *First Day of*
10 *January One thousand eight hundred and sixty-eight.*

Commence-
ment of Act.

12. This Act shall extend only to Ireland.

Extent of
Act.

District Lunatic Asylums Officers (Ireland). ---

A

B I: L, L

To provide for the Appointment of the
Officers and Servants of District Lu-
natic Asylums in Ireland, and to alter
and amend the Law relating to the
Custody of dangerous Lunatics and
dangerous Idiots in Ireland.

(Prepared and brought in by
Lord Naas and Mr. Attorney General for Ireland.)

*Ordered, by The House of Commons, to be Printed,
9 July 1867.*

[Bill 242.]

Under 1 oz.



A

B I L L

[AS AMENDED IN COMMITTEE]

TO

Provide for the Appointment of the Officers and
Servants of District Lunatic Asylums in Ireland,
and to alter and amend the Law relating to the
Custody of dangerous Lunatics and dangerous
Idiots in Ireland.

WHEREAS under the Provisions of an Act passed in the Preamble.
Session of Parliament holden in the First and Second
Years of the Reign of His late Majesty King George the
Fourth, intituled “An Act to make more effectual Provision for the 1 & 2 G. 4.
5 “Establishment of Asylums for the Lunatic Poor, and for the Custody of Insane Persons charged with Offences, in Ireland,” and of c. 33.
the several Acts amending the same, District Lunatic Asylums have
been established in Ireland:
And whereas Doubts have arisen as to the Person or Persons by
10 whom the Officers and Servants of such District Lunatic Asylums
should be appointed:
And whereas it is expedient to remove the same, and to provide
for the Appointment of the said Officers and Servants:
And whereas an Act was passed in the First Year of the Reign
15 of Her present Majesty, intituled “An Act to make more effectual 1 Vict. c. 27.
“Provision for the Prevention of Offences by Insane Persons in
“Ireland,” by which it is, amongst other things, enacted, that if
[Bill 269.] A any

any Person should be discovered and apprehended in Ireland under Circumstances denoting a Derangement of Mind, and a Purpose of committing some Crime for which, if committed, such Person would be liable to be indicted, it should be lawful for any Two Justices of the Peace of the County, County of a City, County of 5 a Town, City or Town, and Liberties, before whom such Person might be brought, to call to their Assistance any legally qualified Physician, Surgeon, or Apothecary; and if upon View and Examination of the said Person so apprehended, or from other Proof, the said Justices should be satisfied that such Person was a dangerous 10 Lunatic or a dangerous Idiot, it should be lawful for the said Justices, by Warrant under their Hands and Seals, to commit such Person to the Gaol of such County, County of a Town, City or Town, and Liberties, there to be kept in strict Custody until or unless such Person should be discharged in manner by the said Act 15 provided :

8 & 9 Vict.
c. 107.

And whereas the said Act was amended by another Act, passed in the Eighth and Ninth Years of the Reign of Her present Majesty, intituled "An Act for the Establishment of a Central Asylum for " Insane Persons charged with Offences in Ireland; and to amend 20 " the Act relating to the Prevention of Offences by Insane Persons, " and the Acts respecting Asylums for the Insane Poor, in Ireland; " and for appropriating the Lunatic Asylum in the City of Cork to " the Purposes of a District Lunatic Asylum :"

And whereas it is expedient further to amend the same, and to 25 make other and better Provision for the safe Custody of dangerous Lunatics and dangerous Idiots in Ireland :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and 30 by the Authority of the same, as follows :

Interpreta-
tion :

1. In this Act the Words following shall have the Meanings herein-after assigned to them :

" Lord Lieu-
tenant :"

" Lord Lieutenant " shall mean Lord Lieutenant of Ireland and the Lords Justices or other Chief Governors or Governor of 35 Ireland for the Time being :

" Officer."

" Officer " shall include Resident Medical Superintendent, Consulting and Visiting Physician, Chaplains, Matron, Apothecary, Clerk and Storekeeper, Schoolmaster and Schoolmistress of any District Lunatic Asylum, and any Person discharging any 40 Duties in any such Asylum whom the Lord Lieutenant by Order in Council shall so designate.

Power to
Lord Lieu-
tenant in

2. It shall be lawful for the Lord Lieutenant from Time to Time, by Order in Council, to determine the Staff of Male and Female Officers

Officers and Servants of any District Lunatic Asylum, and to direct that the same shall be increased, diminished, or altered, as he shall think fit, and to appoint the Salaries and define the Duties of the said Officers and Servants, and to make Rules and Regulations for the Control and Guidance of the said Officers and Servants.

Council to determine Staff of Officers and Servants of District Lunatic Asylum.

3. When any Vacancy happens in the Office of Resident Medical Superintendent of any District Lunatic Asylum in Ireland it shall be lawful for the Lord Lieutenant to appoint a Person to fill such Vacancy; and when any Vacancy occurs in any other Office in any such Asylum the Governors of the same shall, with the Approval of the Lord Lieutenant, appoint a fit Person to fill the same: Provided that no Person shall be appointed Resident Medical Superintendent or Visiting Physician who is not duly qualified to practise both Medicine and Surgery, and registered as such under the Medical Act, 1858, or any Act amending the same; and the said Governors shall appoint all the Servants necessary for such Asylum; and when any District Lunatic Asylum shall hereafter be established the Officers and Servants of the same shall respectively be appointed in like Manner.

Appointment of Resident Medical Superintendent and Visiting Physician and other Officers and Servants.

4. The Appointment of any Officer by the Governors of any District Lunatic Asylum shall in the first instance be probationary only; and the same shall require to be confirmed by the Governors at a Meeting to be held not sooner than Three nor later than Six Calendar Months from the Date of the probationary Appointment; and every Appointment confirmed by the Governors shall be laid before the Lord Lieutenant for his Approval; and if the Governors shall not, at a Meeting held within the Period of Six Months herein provided, confirm such probationary Appointment, or if they shall at such Meeting refuse to confirm the same, or if the Lord Lieutenant shall refuse to approve of any Appointment so confirmed, and shall notify such Refusal to the Governors, the Officer so appointed shall cease to hold his Office, and the same shall become vacant from the Expiration of such Period of Six Months, or from the Date of the Meeting at which the Governors shall so refuse to confirm the Appointment, or from such Notification by the Lord Lieutenant, as the Case may be.

Appointment of certain Officers to be in the first instance probationary only.

5. If the Governors of any District Lunatic Asylum shall neglect to appoint any Officer or Servant whom they are empowered to appoint, and who shall be required to complete the Staff for the Time being determined on for any such Asylum, for the Space of Two Calendar Months after they shall have been called upon to make such Appointment, by Writing under the Hand of One of the

Lord Lieutenant shall appoint Officers in default of Governors. 19 & 20 Vict. c. 68. s. 18.

4 *District Lunatic Asylums Officers (Ireland).*

Inspectors of Lunatic Asylums, the Lord Lieutenant shall appoint such Officer.

Tenure of
Office of
Officers and
Servants.

Power to
remove
Officers.

6. The Resident Medical Superintendent and Visiting Physician of any District Lunatic Asylum now or hereafter to be appointed shall hold Office during the Pleasure of the Lord Lieutenant; and all 5 other Officers of any District Lunatic Asylum now or hereafter to be appointed may be removed by the Governors of such Asylum with the Approbation of the Lord Lieutenant, and any Servant in any such Asylum may be dismissed by the Governors thereof.

Confirma-
tion of Ap-
pointments
hitherto
made.

7. All Appointments made by the Lord Lieutenant to any 10 Office or Situation in any District Lunatic Asylum in Ireland before the passing of this Act shall be valid and effectual.

Superannua-
tion.

8. From and after the passing of this Act it shall be lawful for the Governors of any District Lunatic Asylum, with the Approval of the Inspectors of Lunatics, or One of them, on the Retirement of any 15 Officer or Servant whose whole Time has been devoted to the Service of such Asylum, to direct that such Officer or Servant shall receive such Superannuation Allowances as they shall think proper; and in ascertaining and awarding the Amount of such Superannuation Allow-
ance the said Governors shall proceed according to the Principles 20 laid down by "The Superannuation Act, 1859;" and every such Superannuation Allowance shall be advanced, paid, presented for, and raised in like Manner as any other Monies advanced or raised for supporting and maintaining such District Lunatic Asylum.

After pass-
ing of this
Act no
dangerous
Lunatic or
dangerous
Idiot to be
committed to
any Gaol in
Ireland.

9. From and after the First Day of January One thousand eight 25 hundred and sixty-eight it shall not be lawful for Two Justices to commit to any Gaol in Ireland any Person proved to their Satisfac-
tion to be a dangerous Lunatic or dangerous Idiot, anything in
the recited Acts to the contrary notwithstanding.

Dangerous
Lunatics and
dangerous
Idiots to be
sent to
Asylums.

10. From and after the First Day of January One thousand eight 30 hundred and sixty-eight whenever any Person shall be brought before any Two Justices of any County, County of a City, County of a Town, City or Town, and it shall be proved to their Satisfaction that such Person was discovered and apprehended under Circumstances denoting a Derangement of Mind, and a Purpose of committing some 35 Crime for which, if committed, such Person would be liable to be indicted, the said Justices shall call to their Assistance the Medical Officer, or if there be more than One, the nearest available Medical Officer of the Dispensary District in which they shall be at the Time, and if there shall not be any such Medical Officer available, then the 40
nearest

nearest available Medical Officer of any neighbouring Dispensary District, who shall examine such Person without Fee or Reward; and if such Medical Officer shall certify that such Person is a dangerous Lunatic or a dangerous Idiot, it shall be lawful for the
5 said Justices, by Warrant under their Hands and Seals, to direct that such Person shall be taken to the Lunatic Asylum established either wholly or in part for the County, County of a City, or County of a Town in which he shall have been apprehended; and every such Person shall remain under Confinement in such Asylum, and be there
10 maintained, in like Manner and subject to the same Conditions as if such Person had been removed from any Gaol to such Asylum by virtue of the Warrant of the Lord Lieutenant under the Provisions of the recited Act of the First Year of Her present Majesty, Chapter Twenty-seven: Provided always, that nothing herein contained shall
15 be construed to restrain or prevent any Relation or Friend from taking such Person under his own Care and Protection if he shall enter into sufficient Recognizance for his or her peaceable Behaviour or safe Custody before Two Justices of the Peace, or the Chairman of the Court of Quarter Sessions of the County in which such Person shall
20 be confined, or One of the Judges of Her Majesty's Superior Courts at Dublin.

11. Whenever it shall be duly certified by Medical Certificate that any Person removed to such Lunatic Asylum as aforesaid has become of sound Mind, or has ceased to be or is not a dangerous
25 Lunatic, or is not a dangerous Idiot, such Person may lawfully be discharged from such Lunatic Asylum without the Order of the Lord Lieutenant, as in the Case of other Lunatic Poor.

Persons removed to Lunatic Asylums may be discharged on Medical Certificate.
9 & 10 Vict.
c. 115. s. 3.

District Lunatic Asylums Officers (Ireland).

A

B I : L L

[AS AMENDED IN COMMITTEE]

To provide for the Appointment of the
Officers and Servants of District Lu-
natic Asylums in Ireland, and to alter
and amend the Law relating to the
Custody of dangerous Lunatics and
dangerous Idiots in Ireland.

(*Prepared and brought in by*
Lord Naas and Mr. Attorney General for Ireland.)

Ordered, by The House of Commons, to be Printed,
22 July 1867.

[Bill 269.]

Under 1 oz.

District Prothonotaries, Court of Common Pleas, County Palatine of Lancaster Bill. [H.L.]

ARRANGEMENT OF CLAUSES.

Clause.

1. Power to the Chancellor to appoint District Prothonotaries and assign Districts.
2. Power to the Chancellor to appoint Clerks to act within Districts.
3. Every District Prothonotary to have an Office within District.
4. Duties of District Prothonotaries and Clerks.
5. Additional Duties and Powers to be discharged and exercised by District Prothonotaries.
6. Power to the Chancellor to make and publish General Rules.
7. Matters referred to in preceding Section may be heard and determined by Superior Courts at Westminster or any One of Judges.
8. Rules to be published in London Gazette.
9. Rules to be laid before Parliament.
10. Table of Fees to be hung up in Office of Prothonotary and District Prothonotary.
11. Duties and Power of Prothonotary.
12. No Prothonotary or District Prothonotary to practise or take Fees.
13. Seal to be provided.
14. Office to be kept by Sheriff.
15. How Judgments, Rules, and Orders to be enforced.
16. Prothonotary and District Prothonotaries to make out Account of Fees, and have the same audited.
17. Fees to be paid to "The Prothonotary's Fee Fund Account."
18. Payments to be made out of "The Prothonotary's Fee Fund Account."
19. Costs of Act.
20. Act may be amended.
21. Short Title of Act.
22. When Act to come into operation



A

B I L L

INTITULED

An Act to authorize the Appointment of District Prothonotaries of the Court of Common Pleas of the County Palatine of Lancaster, and to provide for the better Despatch of Business therein.

WHEREAS the Court of Common Pleas of the County Palatine of Lancaster is an ancient Court, and has been found greatly beneficial to the Inhabitants of the said County Palatine, and it is expedient to amend the Practice thereof:
5 Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

1. The Chancellor of the Duchy and County Palatine of Lancaster for the Time being may from Time to Time appoint, by Writing under his Hand, such competent Persons as he shall think fit to act as District Prothonotaries of the said Court of Common Pleas of the said County Palatine during the Pleasure of the Chancellor of the said Duchy and County Palatine for the Time
15 being, and may assign a District to the Persons so appointed, and

Power to the Chancellor to appoint District Prothonotaries and assign Districts.

[Bill 241.]

A

every

2 *District Prothonotaries, Court of Common Pleas,
County Palatine of Lancaster.*

every District Prothonotary shall be paid by Salary as herein-after provided.

Power to the
Chancellor
to appoint
Clerks
to act within
Districts.

2. The Chancellor of the said Duchy and County Palatine for the Time being may also from Time to Time appoint, by Writing under his Hand, such competent Persons as he shall think fit to act 5 during the Pleasure of the said Chancellor for the Time being as Clerks for the efficient Despatch of Business within any District, and every Person so appointed shall be paid such Sum by way of Salary or Remuneration as herein-after provided.

Every Dis-
trict Protho-
notary to
have an
Office within
District.

3. Every District Prothonotary shall have an Office in some con- 10 venient Situation within his District, to be approved of by the Chancellor of the said Duchy and County Palatine for the Time being, and the Rent and Taxes of and other Expenses and Outgoings connected with such Office shall be paid as herein-after provided.

Duties of
District
Protho-
notaries and
Clerks.

4. Each of the District Prothonotaries and his Clerk or Clerks 15 shall within his District discharge such of the Duties and have and exercise such of the Powers and Authorities which heretofore have been discharged, or had and exercised by the Prothonotary, as shall be assigned to him by the Chancellor of the said Duchy and County Palatine for the Time being: Provided always, that the Duties and 20 Powers and Authorities of Associate are to be discharged, had, and exercised by the Prothonotary as they have been heretofore discharged, had, and exercised by the Prothonotary or Acting Prothonotary of the said Court.

Additional
Duties and
Powers to be
discharged
and exer-
cised by
District Pro-
thonotaries.

5. In addition to the Duties and Powers to be discharged and 25 exercised by the respective District Prothonotaries within their respective Districts, as herein-before mentioned, each of the said District Prothonotaries shall, with reference to the Business of the said Court within the District to which he shall be so appointed, discharge all the Duties and have and exercise all the Powers which 30 now are or may be at any Time discharged or exercised by any Master of Her Majesty's Courts of Queen's Bench, Common Pleas, or Exchequer at Westminster; but every Order made or Process issued by virtue of this Section shall be subject to Appeal, and liable to be discharged as shall be provided for by any General Rule 35 to be made as herein-after provided.

Power to
the Chan-
cellor to
make and
publish

6. It shall be lawful for the Chancellor of the said Duchy and County Palatine for the Time being, with the Advice and Consent of the Chief Justice and One of the Justices for the Time being of the Court of Common Pleas at Lancaster, from Time to Time to 40 make

District Prothonotaries, Court of Common Pleas, 3
County Palatine of Lancaster.

make and publish General Rules for the following Purposes; that is General Rules.
to say,

1. For empowering the Prothonotary or District Prothonotary, or
some One or more of them, to do any of such Things, and to
transact any of such Business, and to exercise any of such
Authority and Jurisdiction in respect of the Court of Common
Pleas at Lancaster, as by virtue of any Statute or Custom, or
by the Rules and Practice of Her Majesty's Courts of Queen's
Bench, Common Pleas, and Exchequer of Pleas at West-
minster, or any of them respectively, are now done, trans-
acted, or exercised by a Judge of the said Courts sitting at
Chambers, and as shall be specified in any such Rule; but
every Order made and Thing done under this Power shall be
subject to Appeal, and liable to be discharged as herein-after
provided :
2. For regulating the Attendance of the said Prothonotary or
District Prothonotary at their respective Offices, the Course
of Practice to be there pursued, and the Scale of Costs to
be there adopted :
3. For fixing, with the Sanction of Her Majesty's Principal Secre-
tary of State for the Home Department, the Table of Fees to
be taken in respect of Business to be transacted before the
Prothonotary or District Prothonotary, and for abolishing or
altering from Time to Time (with the like Sanction) such
Table of Fees :
4. For providing for the hearing by One or more of the Judges of
the Court, either within the County Palatine or in London
or Westminster, of any Appeal or Application to the Court, or
for the hearing of any Demurrer or Special Case, or obtaining
or hearing of any Rule or Order or Application of or to the
said Court.

7. Any such Matter as last aforesaid may be heard and deter-
mined by any of the Superior Courts at Westminster, either sitting
in Banco or by any One of the Judges of the said Courts at
Chambers, when according to the Practice of such Court such
Matter would be heard by a single Judge at Chambers. Upon the
Hearing of any such Matter the Court or such Superior Court at
Westminster or Judge may make such Order as to Costs as may be
just.

Matters referred to in preceding Section may be heard and determined by Superior Courts at Westminster or any One of Judges.

8. Every General Rule to be made under this Act shall be pub-
lished in the London Gazette within Fourteen Days at least before
the Day fixed for such Rule coming into operation, and a Copy of

Rules to be published in London Gazette.

4 *District Prothonotaries, Court of Common Pleas,
County Palatine of Lancaster.*

every such Rule shall be hung up in some conspicuous Place in the Office of the Prothonotary and of every District Prothonotary.

Rules to be
laid before
Parliament.

9. Every General Rule to be made under this Act shall be laid before both Houses of Parliament within One Month after the making thereof, if Parliament be then sitting, or if Parliament be 5 not then sitting, within One Month after the Commencement of the next Session of Parliament.

Table of
Fees to be
hung up in
Office of Pro-
thonotary
and District
Prothono-
tary.

10. A Table of all Fees for the Time being authorized to be taken by the Prothonotary or District Prothonotary shall be hung up in some conspicuous Place in the Office of the Prothonotary and 10 of every District Prothonotary.

Duties and
Power of
Prothono-
tary.

11. The Prothonotary shall continue to discharge and have and exercise the Duties, Powers, and Authorities not expressly assigned to some District Prothonotary; and the Chancellor of the said Duchy and County Palatine for the Time being may from Time to 15 Time assign a District to the Prothonotary, within which he shall keep an Office as herein-before provided with respect to every District Prothonotary, and shall discharge the Duties and have and exercise all the Powers and Authorities by this Act given to a District Prothonotary. 20

No Protho-
notary or
District Pro-
thonotary to
practise or
take Fees.

12. It shall not be lawful for any Prothonotary or District Prothonotary, during the Time he shall hold and exercise his Office, either directly or indirectly, by himself, his Partner, Clerk, or other Person, to practise in the said Court, either as Attorney originally retained for any Party in any Matter pending in the said Court, or 25 as Agent for any other Attorney practising in the said Court, nor to participate in any Costs payable to any Attorney in respect of any such Matters; and any Prothonotary or District Prothonotary being proved to the Satisfaction of the said Chancellor to have so practised or to have participated in any Costs as aforesaid contrary 30 to the Meaning and Intent of this Act, shall be deemed to have committed, and shall be punishable as and for a Contempt of Court, and shall be liable to Dismissal from his Office.

Seal to be
provided.

13. A proper Seal shall be provided for the Use of each of the Districts of the said Court, whereon shall be engraved the Name of 35 the Court, together with the Name of the District for which the same shall be provided, and all Writs of Summons or other Process and Papers requiring the Seal of the said Court shall in future be stamped

District Prothonotaries, Court of Common Pleas, 5
County Palatine of Lancaster.

stamped with the Seal of the said Court for the District within which the Action or other Proceeding shall be commenced or carried on in lieu of the Seal of the Court with which the Process of the Court has heretofore been stamped.

- 5 14. Every Judgment and every Rule and Order of the Court shall and may be enforced by the same Process and in the same Manner, and shall have the same Effect, and such Writ of Execution and other Process be had thereon, as if it were a Judgment, Rule, or Order of One of the Superior Courts at Westminster, and all
10 Sheriffs and others shall obey the same and act accordingly.

How Judgments, Rules, and Orders to be enforced.

- 15 15. The Prothonotary and every District Prothonotary for the Time being shall once in every Year, or oftener if required by the Chancellor of the said Duchy and County Palatine for the Time being, on such Day as shall be appointed for that Purpose by the
15 Auditor for the Time being of the Duchy of Lancaster, make out a full and true Account of all Fees received by him or them by virtue of his or their Office, including the Fees received by the Prothonotary as Associate as aforesaid, during the preceding Year or subsequent to his last Account, and shall have such Account
20 audited by such Auditor for the Time being, who is hereby required to audit the same, and if found correct, to allow the same by putting his Signature thereto, and to a duplicate Copy thereof.

Prothonotary and District Prothonotaries to make out Account of Fees, and have the same audited.

- 25 16. The Prothonotary and every District Prothonotary shall from Time to Time when so required by the Chancellor for the Time being of the said Duchy and County Palatine, pay over to the Credit of "The Prothonotary's Fee Fund Account of the County Palatine of Lancaster," which Account shall be kept at some Banking House to be named by the said Chancellor, all Fees which shall be received by such Prothonotary or District Prothonotary in virtue of his Office, including the Fees received by the Prothonotary as Associate or Acting Associate as aforesaid, and every such Prothonotary or District Prothonotary shall give such Security, by Bond or otherwise as to the said Chancellor shall seem fit, for the due accounting for and Payment of all Fees for all Sums
30 of Money which shall be received by such Prothonotary or District Prothonotary by virtue of his Office, including the Fees received by the Prothonotary as Associate or Acting Associate as aforesaid; the Fees received by the Prothonotary since the Death of Sir Charles Phipps shall be also paid to the aforesaid Prothonotary Fee Fund
40 Account; any Monies from Time to Time standing to such Account may be invested, and such Investments may from Time to Time be

Fees to be paid to "The Prothonotary's Fee Fund Account."

District Prothonotaries, Court
of Common Pleas, County
Palatine of Lancaster, Bill.

[H.L.]

A

B I L L

INTITLED

An Act to authorize the Appointment
of District Prothonotaries of the Court
of Common Pleas of the County Pala-
tine of Lancaster, and to provide for
the better Despatch of Business
therein.

(*Brought from the Lords 7 June 1867.*)

*Ordered, by The House of Commons, to be Printed,
9 July 1867.*

[241.]

Under 2s. 6d.



A

B I L L

TO

Amend the Act of the Twenty-eighth and Twenty-ninth Victoria, Chapter Fifty, for regulating the keeping of Dogs, and for the Protection of Sheep and other Property from Dogs, in Ireland.

WHEREAS it is expedient to amend the Act of the Preamble.
Twenty-eighth and Twenty-ninth Victoria, Chapter 28 & 29 Vict.
Fifty : c. 50.

Be it enacted by the Queen's most Excellent Majesty, by and
5 with the Advice and Consent of the Lords Spiritual and Temporal,
and Commons, in this present Parliament assembled, and by the
Authority of the same; as follows :

1. That the Word "Borough" in the said Act shall apply to all
Towns in Ireland which are subject to the Provisions of the Towns
10 Improvement Act, Ireland, and that the Registrar shall pay over
to the Treasurer of such Town the surplus Monies arising from the
Sale of Licences in the said Town, in manner directed by the
Fifteenth Section of said Act of Twenty-eighth and Twenty-ninth
Victoria, Chapter Fifty, to be applied by the Treasurer in aid of
15 the Rates of such Town, in such Manner as the Town Commis-
sioners shall direct.

[Bill 184.]

**Dogs Regulation (Ireland)
Act (1865) Amendment.**

A

B I L L

To amend the Act of the Twenty-eighth
and Twenty-ninth Victoria, Chapter
Fifty, for regulating the keeping of
Dogs, and for the Protection of
Sheep and other Property from Dogs,
in Ireland.

*(Prepared and brought in by
Mr. Stoopole, Mr. Lawson, and Mr. O'Beirne)*

*Ordered, by The House of Commons, to be Printed,
3 June 1867.*

[Bill 184.]

Under 1 oz.

LORDS AMENDMENTS

TO THE

DOGS REGULATION (IRELAND) ACT, 1865,
AMENDMENT BILL.

Note.—*The Page and Line refer to the Bill (247.) as printed by the Lords.*

Page 1.

- Line 10. After ("Ireland") insert ("and to all Townships having Commissioners under Local Acts")
- Line 14. After ("Town") insert ("and Township")
- Line 16. After ("Town") insert ("and Township")
- Line 19. After ("Town") insert ("and Township")

LORDS AMENDMENTS

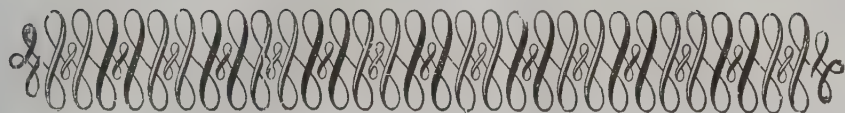
TO THE

DOGS REGULATION (IRELAND)
ACT, 1865, AMENDMENT BILL.

Ordered, by The House of Commons, to be Printed,
13 August 1867.

[Bill 315.]

Under 1 oz.



A

B I L L

TO

Authorize an Alteration in the Mode of Repayment of a Loan made by the West India Relief Commissioners to the Island of Dominica.

WHEREAS the Commissioners acting in execution of an Act of the Session of the Second and Third Years of King William the Fourth, Chapter One hundred and twenty-five (herein-after referred to as the West India Relief Commissioners) did in pursuance of the Provisions of an Act of the Fifth and Sixth Years of King William the Fourth, Chapter Fifty-one, advance by way of Loan the Sum of Ten thousand Pounds for the Public Service of the Island of Dominica: And whereas in pursuance of the Provisions of an Act of the Session of the Twenty-third and Twenty-fourth Years of the Reign of Her present Majesty, Chapter Fifty-seven, the Commissioners of Her Majesty's Treasury directed the West India Relief Commissioners to accept in liquidation of the Balance of the said Loan, and of the Arrears of Interest on such Loan, an Annuity of Five hundred and fifty-five Pounds Fifteen Shillings for Twenty Years, the First Payment of which was to be made on the Thirty-first Day of March One thousand eight hundred and sixty-one: And whereas the said Annuity of Five hundred and fifty-five Pounds Fifteen Shillings
[Bill 291.]

2 & 3 W. 4.
c. 125.
5 & 6 W. 4.
c. 51.
23 & 24 Vict.
c. 57.

was

was regularly paid up to the Thirty-first Day of March One thousand eight hundred and sixty-five, when the last Payment was made: And whereas the Government of the Island of Dominica were lately obliged to raise a Loan of Four thousand Pounds, repayable with Interest in Four Years: And whereas the Revenues of the 5 Island of Dominica are insufficient to provide for the Repayment of the Loan of Four thousand Pounds and Interest within Four Years, and also for the Payment during those Years of the said Annuity, and consequently the Commissioners of Her Majesty's Treasury have proposed to the Government of Dominica the follow- 10 ing Terms, namely, that on the Government of Dominica making a legal Provision for the Payment of an increased Annuity for Eleven Years of such an Amount as the said Commissioners might consider an Equivalent for the former Annuity, the First Payment of such increased Annuity to be made on the Thirty- 15 first Day of March One thousand eight hundred and seventy, and the remaining Payments on the same Day in the Ten subsequent Years, the said Commissioners would be prepared to ask Parliament to sanction the Substitution of such increased Annuity for the said former Annuity: And whereas it is expedient that the 20 Commissioners of Her Majesty's Treasury should be authorized to direct the West India Relief Commissioners to accept the said increased Annuity in substitution for the said former Annuity:

Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, 25 and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Treasury may direct the Acceptance of an Annuity for 11 Years, commencing 31 March 1870, in lieu of Annuity now payable by Dominica.

1. It shall be lawful for the Commissioners of Her Majesty's Treasury, if it appears to them that the Legislature of the Island of Dominica has made legal Provision for the Payment of such 30 increased Annuity as herein-before mentioned, to direct that such increased Annuity be accepted in substitution for the said former Annuity.

Short Title.

2. This Act may be cited for all Purposes as "The Dominica Loan Act, 1867."

Dominica Loan.

A

BILL

To authorize an Alteration in the Mode
of Repayment of a Loan made by the
West India Relief Commissioners to
the Island of Dominica.

(Prepared and brought in by
Mr. Hunt and Mr. Alderley.)

*Ordered, by The House of Commons, to be Printed,
29 July 1867.*

[Bill 291.]

Under 1 œ.



A

B I L L

TO

Confirm a Provisional Order under “ The Drainage and Improvement of Lands (Ireland) Act, 1863,” and the Acts amending the same.

WHEREAS the Commissioners of Public Works in Ireland have, in pursuance of the Drainage and Improvement of Lands Act, Ireland, 1863, and the Acts amending the same, duly made the Provisional Order contained in the Schedule to this Act annexed; and it is by said Act provided that no such Order shall be of any Validity whatever until it shall have been confirmed by Parliament, and it is expedient that the said Order should be so confirmed :

Preamble.

Be it therefore enacted by the Queen’s most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

1. The Provisional Order contained in the Schedule hereunto annexed is hereby confirmed, and from and after the passing of this Act shall be deemed to be a Public General Act of Parliament, of the like Force and Effect as if the Provisions of the same had been enacted in the Body of this Act.

Provisional Order confirmed.

2. It is hereby declared that, as against any Person owning or interested in any Land or other Property situate beyond the Limits of

Saving of Rights of Owners

2 Drainage and Improvement of Lands (Ireland) Supplemental.

beyond the
Jurisdiction
of the Board
established
by this Act.

of the Jurisdiction of the Board established by this Act, nothing contained in the said Drainage and Improvement of Lands Act (Ireland), 1863, or in the said Provisional Order, or in this Act, shall be construed to render legal any Work executed or to be executed by such Board that would, if the said Acts had not been passed, have been 5 illegal by reason of its injuriously affecting such Land or Property; and any Damages adjudged to be paid by the said Board to any Person as aforesaid shall be deemed to be Part of the Costs incurred by such Board in defending legal Proceedings instituted against them, and shall be defrayed in manner in which the said Costs are autho- 10 rized to be defrayed by the Drainage and Improvement of Lands Act (Ireland), 1863.

Short Title.

3. This Act may be cited for all Purposes as “The Drainage and Improvement of Lands Supplemental Act (Ireland), 1867.”

Drainage and Improvement of Lands (Ireland) Supplemental. 3

SCHEDULE to which the Act refers.

Drainage and Improvement of Lands Act (Ireland) 1863; 26 & 27 Victoria, Chapter 88; 27 & 28 Victoria, Chapter 72; 28 & 29 Victoria, Chapter 52.

In the matter of BRICKEY Drainage District, county of Waterford.

5 WHEREAS certain proprietors of and persons interested in the lands adjoining the Brickey River, on or about the Nineteenth day of March One thousand eight hundred and sixty-six, presented their Petition to the Commissioners of Public Works in Ireland, under the provisions of the Drainage and Improvement of Lands Act (Ireland), 1863, and the Acts since passed amending the
10 same, accompanied by the proper schedules, maps, plans, sections, and estimates, together with other particulars and information required by the said Act, showing by reference to the said map the boundaries and area of the proposed Drainage District, and stating the exigencies rendering the formation of such Drainage District necessary, and praying that the said lands within the pro-
15 posed District should be constituted a separate Drainage District under the provisions of the said Act:

And whereas the said Commissioners referred the same to Samuel U. Roberts, Esquire, civil engineer, an inspector duly appointed under the said Act:

And whereas all notices and inquiries required by the said Act have been
20 duly given and made, and the said Inspector has duly reported to us the said Commissioners in writing the result of his inquiries, and we the said Commissioners have duly considered the same, and no objections to the report of the said Inspector have been made to us, and all preliminaries required by the said Act to precede the making of this Provisional Order have been performed and
25 complied with:

And whereas the said Commissioners of Public Works in Ireland, upon consideration of the premises, are satisfied of the propriety of constituting the proposed separate Drainage District, and that the proprietors of two third parts in value of the lands in the proposed District are in favour thereof, and have
30 subsequently to the date of the report of the said Inspector assented thereto in writing:

Now, therefore, in pursuance of the power given to us by the said Act, we, the Commissioners of Public Works in Ireland, do by this Provisional Order under our common seal constitute the area in the said petition and report,
35 and the boundaries and extent of which are set forth within yellow lines on a certain map to which we have caused our common seal to be attached, and which map is deposited in the office of Public Works in Ireland, a separate Drainage District by the name of "The Brickey River Drainage District;" and we do declare, that the lands to be purchased for the proposed works in
40 such District, subject to such alterations and deviations therefrom as we the said Commissioners may hereafter sanction, are the lands in that behalf shown and set forth in the said map and the schedule thereto annexed, marked with the letter B, and also sealed with our common seal:

And we the said Commissioners of Public Works do, by this our Provisional
45 Order, order and direct that the time for completion of the necessary works in

4 Drainage and Improvement of Lands (Ireland) Supplemental.

the said District shall be limited to the First day of November which will be in the year One thousand eight hundred and sixty-nine :

And we do further by this our Provisional Order make the following regulations with respect to the Drainage Board:—

That the Drainage Board for the said District shall consist of eight members: 5

That the following persons shall be the members of the first Drainage Board; viz,—

Lord Stuart de Decies of Dromana in the county of Waterford; Sir Richard Musgrave, Baronet, of Tourin in the county of Waterford; Edward O'Dell of Carriglea in the county of Waterford, Esquire; Thomas Egan of Ballin- 10
together in the county of Waterford, Esquire; John Quinlan of Clonkerden in the county of Waterford, Esquire; Edmond Spratt of Coolcormuck in the county of Waterford, Esquire; Patrick Curran of Ballycullane in the county of Waterford, Esquire; William McCarthy of Ballyduff in the county of Waterford, Esquire: 15

That the first meeting of said Board shall be summoned by notice under the hands of any two or more of the said Board, published in the Dublin Gazette, and some newspaper generally circulated in the said District, at least fourteen days next before the day of meeting:

That the qualifications of any subsequent member of the said Board shall be 20
that he shall be the proprietor (as defined by the said Act, and the Acts referred to therein or incorporated therewith,) of not less than twenty acres of land situate within the area of the said District, or the land agent for the time being of a person being a proprietor as aforesaid of not less than one hundred acres of land, situate within the area of said District, and acting as receiver of 25
the rents and profits of such lands:

That the members of the first Board shall vacate their offices on the first Thursday in September in the year following the date of this Provisional Order:

That the electors for members of the Drainage Board shall be the persons in 30
that behalf mentioned in the said Act; provided alway, that no such elector shall be entitled to vote or exercise any privilege as such, unless the land of which he is the proprietor, or some portion thereof, shall be rateable on account of the works in the District, and he shall have previously paid all rates and arrears of rates which may be payable by him in respect of any drainage rate 35
for the aforesaid District.

In witness whereof we, the said Commissioners of Public Works in Ireland, have herunto caused our common seal to be affixed this Eighth day of April One thousand eight hundred and sixty-seven.

(L.S.) E. HORNSBY, Secretary. 40

Office of Public Works, Dublin.

Drainage and Improvement of
Lands (Ireland) Supplemental.

A

B I L L

To confirm a Provisional Order under
“The Drainage and Improvement of
Lands (Ireland) Act, 1863,” and the
Acts amending the same.

(Prepared and brought in by
Mr. Hunt and Lord Naas.)

Ordered, by The House of Commons, to be Printed,
14 June 1867.

[Bill 189.]

Under 1 oz.



A

B I L L

TO

Amend the Laws regulating the Superannuation Allowances of the Dublin Metropolitan Police.

WHEREAS by an Act passed in the Tenth and Eleventh Preamble.
Years of the Reign of Her present Majesty (Chapter One
hundred) Regulations were made for the granting of
Superannuation Allowances to Members of the Dublin Metropolitan
5 Police :

And whereas it is expedient to alter and amend the said
Regulations :

Be it enacted by the Queen's most Excellent Majesty, by and
with the Advice and Consent of the Lords Spiritual and Temporal,
10 and Commons, in this present Parliament assembled, and by the
Authority of the same, as follows :

1. From and after the *passing of this Act*, so much of the recited
Act as provides for the Payment of a Contribution in aid of the
Funds applicable to the Support of the said Dublin Metropolitan
15 Police equal to *Two Pounds* per Centum per Annum on the Salary
or Pay of the several Parties mentioned therein shall be and the same
is hereby repealed : Provided always, that such Repeal shall not be
held to destroy or in any Manner lessen the Rights of such Parties
[Bill 246.]

So much
of the Act
10 & 11 Vict.
c.100. as
relates to
Deductions
of Two per
Cent. for
Super-
annuations
as repealed.

as shall have so contributed to the Benefit of the Scale of Superannuation by the said Act for them provided.

Power to
the Lord
Lieutenant
to super-
annuate
Officers and
Constables.

2. It shall be lawful for the Lord Lieutenant or other Chief Governor or Governors of Ireland, under the Conditions herein-after mentioned, to direct that any Superintendent Inspectors, Acting Inspector, Serjeant, Acting Serjeant, or Constable of the Dublin Metropolitan Police, appointed to the said Force after the passing of this Act, may be superannuated and receive a Gratuity or yearly Pension not exceeding the Proportion of his Salary stated in the Scale herein-after mentioned; that is to say, 10

Scale of
Super-
annuation.

1. A Gratuity of *One Month's* Pay for each Year's Service after Five Years and less than Fifteen Years :
2. On Completion of Fifteen Years Service, an annual Pension of *Fifteen Fiftieths* of the Pay may be granted, and an Increase of *One Fiftieth* for each successive Year up to 15 Thirty Years Service completed :
3. After Thirty Years Service, or after the Person to be superannuated has attained the Age of Sixty Years, the Pension to be equal to *Thirty Fiftieths* of the Pay, or a larger Proportion in Cases of extraordinary Merit or good Conduct : 20
4. For Injuries received at any Time in the actual Performance of Duty, a Pension for Life may be granted of an Amount in proportion to the Injury received, but not exceeding the full Pay; the Grounds of Disability to be carefully investigated and fully set forth in the Authority granting the 25 Pension.

Conditions
of Super-
annuation.

Provided always, that no such Pension, Retiring Allowance, or Gratuity shall be granted in any Case to any Person, except on the Certificate of the Surgeon of the Force, or such other competent Medical Officer or Officers as the Lord Lieutenant shall name for 30 the Purpose, that such Person is from mental or bodily Incapacity unable to perform his Duty any longer, and the Certificate of One of the Commissioners of the said Dublin Metropolitan Police; that he has served with Diligence and Fidelity; provided also, that any Member of the Force who shall have attained the Age of Sixty 35 Years or upwards may, upon his Petition, be superannuated without such Medical Certificate.

Saving
the existing
Rights of
the Parties
appointed
before the
passing of
this Act.

3. And whereas it is expedient that the present Members of the Dublin Metropolitan Police Establishment should continue to be entitled to receive Retiring Allowances calculated upon the Scale 40 of Superannuation and Rates of Pay to which they were entitled before the passing of this Act: Be it therefore enacted, That the Provisions of the recited Act shall apply to the Members of the said

said Dublin Metropolitan Police Establishment appointed before the passing of this Act, as fully and effectually as if this Act had not been passed.

4. Any Pension or Retiring Allowance shall be granted to
5 Members of the Force appointed after the passing of this Act only upon the Condition that it becomes forfeited and may be withdrawn
by the Lord Lieutenant in any of the following Cases : Pension
liable to be
forfeited for
Misconduct.
1. On Conviction of the Grantee for any indictable Offence :
 - 10 2. On his knowingly associating with suspected Persons, Thieves, or other Offenders :
 3. On his refusing to give Information and Assistance to the Police whenever in his Power, for the Detection and Apprehension of Criminals, and for the Suppression of any Disturbance of the Public Peace :
 - 15 4. If he enter into or continue to carry on any Business, Occupation, or Employment which, in the Opinion of the Lord Lieutenant, shall be disgraceful or injurious to the Public, or in which he shall make use of the Fact of his former Employment in the Police Force in a Manner
20 which the Lord Lieutenant considers to be discreditable and improper :

Provided always, that nothing herein contained shall entitle any Member of the Dublin Metropolitan Police absolutely to any Superannuation Allowance, nor prevent him from being dismissed or
25 discharged, for Misconduct or other sufficient Cause, without Superannuation Allowance.

Dublin Metropolitan Police.

A

B I L L

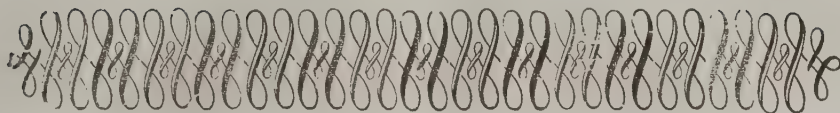
To amend the Laws regulating the
Superannuation Allowances of the
Dublin Metropolitan Police.

(Prepared and brought in by
*Lord Naas and Mr. Attorney General for Ireland
and Mr. Hunt.*)

*Ordered, by The House of Commons, to be Printed,
10 July 1867.*

[Bill 246.]

Under 1 oz.



A

B I L L

TO

Open the Professorships of Anatomy and Chirurgery, Chemistry and Botany, in the University of Dublin, to all Persons irrespective of their religious Creed.

WHEREAS the Professorships of the University of Dublin of Anatomy and Chirurgery, Chemistry and Botany, are now by Law limited to Protestants of all Nations :

Preamble.

40 G. 3. (Ir.)
c. 84. s. 20.

And whereas it is expedient to remove the said Disability and to

5 open the said Professorships to all duly qualified Persons :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same :

- 10 **1.** That from and after the *passing of this Act* the said Professorships of Anatomy and Chirurgery, Chemistry and Botany, in the University of Dublin, shall be open to Persons of all Nations, and that Candidates for the said Professorships shall not be subject to any Disability on account of Religion.

Dublin University Professorships.

A

B I L L

To open the Professorships of Anatomy and Chirurgery, Chemistry and Botany, in the University of Dublin, to all Persons irrespective of their religious Creed.

(*Prepared and brought in by
Mr. Lawson and Mr. Sullivan.*)

*Ordered, by The House of Commons, to be Printed,
8 February 1867.*

[Bill 10.]

Under 1 oz.



A

B I L L

[AS AMENDED IN COMMITTEE]

TO

Open the Professorships of Anatomy and Chirurgery, Chemistry and Botany, in the University of Dublin, to all Persons irrespective of their religious Creed ; and to amend the Act 40 Geo. 3. (Ireland), Chapter Eighty-four.

WHEREAS under the Provisions of an Act passed in the Preamble,
Parliament of Ireland in the Fortieth Year of the Reign 40 G. 3. (Ir.)
of King George the Third, Chapter Eighty-four, the c. 84. s. 20.
Professorships of the University of Dublin of Anatomy and Chirurgery, Chemistry and Botany, are now by Law limited to Protestants
5 of all Nations :

And whereas it is expedient to remove the said Disability, and to open the said Professorships to all duly qualified Persons, and otherwise to amend the said Act :

10 Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same :

1. That from and after the passing of this Act the said Professor- Removal of
15 ships of Anatomy and Chirurgery, Chemistry and Botany, in the Disabilities.
[Bill 59.] University

University of Dublin, shall be open to Persons of all Nations, and that Candidates for the said Professorships or for the Professorships on the Foundation of Sir Patrick Dun shall not be subject to any Disability on account of Religion.

CLAUSE A.
Election
of King's
Professors.

2. Sections Fifteen, Sixteen, and Seventeen of the said Act are 5 hereby repealed, and in lieu thereof be it enacted, That the said King's Professors shall be elected by the President and Fellows of the King's and Queen's College of Physicians.

CLAUSE B.
Delivery of
Clinical
Lectures.

3. From and after the passing of this Act the said University Professors of Chemistry and of Botany shall cease to deliver the 10 Clinical Lectures required by the said Act of the Fortieth Year of King George the Third, and instead thereof such Lectures shall be delivered by the Professor of Surgery in Trinity College, and the University Anatomist; and the said Professor of Surgery and University Anatomist shall be respectively entitled to the Fees 15 payable heretofore to the said University Professors of Chemistry and Botany: Provided always, that nothing herein contained shall affect the Rights of the present University Professor of Chemistry in the event of his electing to deliver such Lectures during his Tenure of such Professorship. 20

CLAUSE C.
Power to
appoint
a Clinical
Lecturer.

4. In case any of the King's Professors or University Professors, or the University Anatomist, shall neglect to attend the said Hos- 25 pital, or deliver Clinical Lectures, as required by the said Act, it shall be lawful for the President and Fellows of the King and Queen's College of Physicians; in the Case of the King's Professors, 25 and for the Provost (or in his Absence the Vice Provost) and Senior Fellows of Trinity College, Dublin, in the Case of the University Professors and University Anatomist, to dispense with his delivering such Lectures; and in such Case it shall be lawful for the said President and Fellows of the said King and Queen's College of 30 Physicians, and for the Provost (or in his Absence the Vice Provost) and Senior Fellows of Trinity College, Dublin, respectively, to appoint a Physician or Surgeon to attend the said Hos- pital and deliver the Clinical Lectures in the Place of such Professor so neglecting to lecture; and the Physician or Surgeon so ap- 35 pointed shall be entitled to receive and be paid the Fees to which the Professor so neglecting to attend the said Hospital and deliver such Lectures would have been entitled.

CLAUSE D.
Power to
make Regu-
lations

5. That the Thirty-first Section of the said Act be repealed, and in lieu thereof be it enacted, That it shall be lawful for the President 40 and

and Fellows of the King and Queen's College of Physicians, in the Case of the King's Professors, and for the Provost (or in his Absence the Vice Provost) and Senior Fellows of Trinity College, Dublin, in the Case of the University Professors, each College with the Assent of the other, to make Regulations respecting the Lectures to be given by its own Professors: Provided always, that if either the President and Fellows of the King and Queen's College of Physicians, or the Provost (or in his Absence the Vice Provost) and Senior Fellows of Trinity College, shall refuse to agree to the Regulations proposed by the other College, in such Case the Regulations so proposed shall be submitted to the Visitors of the College which refuses to agree to them; and it shall be lawful for such Visitors, and they are hereby required, upon hearing such Reasons as may be offered on both Sides, to determine whether the Regulations submitted to them shall or shall not be adopted, and the Decision of such Visitors in any such Case shall be final and conclusive.

6. And whereas by the Tenth Section of the said Act it is enacted, that after the Hospital therein mentioned should be completed, and after defraying the Charges arising from the Salaries and Expenses therein also mentioned, and the necessary Expenses of maintaining One hundred Patients, and the Establishment of such Hospital, which shall not be defrayed by private Contributions, then the clear annual Surplus of the Rents of the Estates therein mentioned shall be applied in the first place to support a Professor of Midwifery, who shall have a Salary of One hundred Pounds a Year, and no more: And whereas it is expedient to provide such Salary for a Professor of Midwifery irrespective of such Restriction: Be it enacted, That from and after the passing of this Act such Professor of Midwifery shall be entitled to receive and be paid the Salary of One hundred Pounds (late Irish Currency) per Annum out of the Rents of the said Estates.

CLAUSE E.
Salary of
Professor of
Midwifery.

7. That Section Twelve of the said Act be and the same is hereby repealed: And whereas in addition to the Salary of the Librarian appointed under the Provisions of the said Act, being the Sum of Seventy Pounds (late Irish Currency), a Sum of Thirty Pounds per Annum has been for several Years applied to the Purchase of Books for a Library, and the Sum of Six Pounds Six Shillings to the Payment of a Library Porter: Be it enacted, That such Salary and Payments for the Purposes aforesaid shall continue to be made; and that it shall be lawful for the President and Fellows of the said King and Queen's College of Physicians to make such Rules and Regulations as to them shall seem necessary and proper for regulating

CLAUSE F.
Management
of Library.

regulating the Duties of such Librarian, the Purchase of Books, and the Management of the said Library.

CLAUSE G.
Vacating of
Fellowships.

8. Whereas by the Forty-first Section of the said Act it is enacted that every Fellow of the said College who should thereafter accept any of the said Professorships should by such Acceptance immediately vacate his Fellowship in the said College of Physicians, and it is expedient that such Provision shall be repealed: Be it therefore enacted, That after the passing of this Act the accepting of any of the said Professorships by a Fellow of the said College shall not vacate his Fellowship; and that the present Professors, who on accepting their Professorships vacated their Fellowships, shall be and are hereby restored to their Fellowships in the said College, and all the Rights and Privileges thereunto belonging. 5 10

Short Title.

9. This Act may be cited for all Purposes as "The School of Physic (Ireland) Amendment Act, 1867." 15

Dublin University Professorships.

A

B I L L

[AS AMENDED IN COMMITTEE]

To open the Professorships of Anatomy and Chirurgery, Chemistry and Botany, in the University of Dublin, to all Persons irrespective of their religious Creed; and to amend the Act 40 Geo. 3. (Ireland), Chapter Eighty-four.

(Prepared and brought in by
Mr. Lawson and Mr. Sullivan.)

*Ordered, by The House of Commons, to be Printed,
28 February 1867.*

[Bill 59.]

Under 1 oz.



A

B I L L

TO

Confirm certain Provisional Orders under “The General Police and Improvement (Scotland) Act, 1862,” relating to the Burgh of Dundee.

WHEREAS the Secretary of State for the Home Department, being One of Her Majesty’s Principal Secretaries of State, has, under the Provisions of the General Police and Improvement (Scotland) Act, 1862, (25 & 26 Vict. c. 101.)
5 duly made certain Provisional Orders, which are contained in the Schedule to this Act annexed; and it is provided by the recited Act that no such Orders shall be of any Validity whatever until they have been confirmed by Parliament; and it is expedient that the said Orders shall be so confirmed :

Preamble.

10 Be it therefore enacted by the Queen’s most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

1. The Provisional Orders contained in the Schedule hereunto
15 annexed shall, from and after the *passing of this Act*, be absolute, and be as binding and of the like Force and Effect as if the Provisions of the same had been especially enacted in this Act.

[Bill 257.]

A

2. This

2. This Act may be cited for all Purposes as "The General Police and Improvement (Scotland) Supplemental Act, 1866."

SCHEDULE referred to in this Act.

I.

DUNDEE.

5

General Police and Improvement (Scotland) Act, 1862
(25 & 26 Vict. Cap. 101.)

WHEREAS by the General Police and Improvement (Scotland) Act, 1862, it is, inter alia, enacted, section 79, that "whenever it appears desirable to the
" magistrates and council or commissioners of police of any royal or parliamen- 10
" tary burgh, or to the commissioners for executing this Act in any burgh or
" populous place, that provision should be made in order the better to apply
" and execute therein the provisions of this Act in whole or in part, or for
" the future application and execution of any Acts in force therein having
" relation to the purposes of this Act, or to the roads or streets within such 15
" burgh or populous place, or to any other matter or thing connected with the
" management and administration of the municipal or police affairs of any such
" burgh or populous place, and that any such Acts, or any exemptions from
" rating therefrom derived, or that any Provisional Order or Orders in Council
" applying this Act hereby authorized to be made, should be wholly or 20
" partially repealed or altered, the magistrates and council or the commis-
" sioners of any burgh, or the magistrates and councils or commissioners of
" contiguous burghs, as the case may be, may present a Petition to one of Her
" Majesty's Principal Secretaries of State, praying for such provision, repeal,
" and alteration as aforesaid, or for any of such things, and such Petition shall 25
" be supported by such evidence as the said Secretary requires; and it shall
" be lawful for any of Her Majesty's Principal Secretaries of State to issue a
" Provisional Order under his hand and seal of office in relation to the several
" things mentioned in the said Petition, either in accordance with the prayer
" thereof, or with such modifications or alterations as may appear to him to be 30
" requisite."

And whereas in said burgh of Dundee the magistrates and town council of said burgh are the commissioners of police appointed and acting under and in virtue of the Act 13 & 14 Vict. cap. 33, intituled "An Act to make more
" effectual provision for regulating the police of towns and populous places in
" Scotland, and for paving, draining, cleansing, lighting, and improving the 35
" same:"

And whereas a Petition under the provisions of the said General Police and Improvement (Scotland) Act has been addressed to me as one of Her Majesty's
Principal

Principal Secretaries of State by the said magistrates and council of Dundee as commissioners foresaid, setting forth that for the better executing the said Act 13 & 14 Vict. cap. 33. within the said burgh of Dundee, it is desirable that the said magistrates and council should be enabled to acquire, under the provisions of the "Lands Clauses Consolidation (Scotland) Act, 1845," for the purchase of lands otherwise than by agreement, certain lands situated in Seagate, Tally Street, and Cherryfield Lane, of Dundee, in order that the said magistrates and council may render more safe for public traffic certain of the streets within Dundee, and praying that a Provisional Order may be issued enabling the said magistrates and council to put in force the said provisions of the last-mentioned Act with respect to the said lands, and that the said Order may be thereafter confirmed by Act of Parliament :

And whereas due inquiry having been directed and held in respect of the matters mentioned in the said Petition I have resolved to grant the prayer thereof in respect to the lands situated in Seagate and Tally Street foresaid ; and plans of the said lands in Seagate and Tally Street aforesaid, and a book of reference thereto containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of the lands and houses that are proposed to be taken, have been signed by me with reference to this Order, and have been deposited with the sheriff clerk of the county of Forfar at his office in Dundee :

Now, therefore, in pursuance of the powers vested in me by the said "General Police and Improvement (Scotland) Act, 1862," I, as one of Her Majesty's Principal Secretaries of State, do, by this Provisional Order under my hand and seal of office, direct that from and after the passing of any Act of Parliament confirming the same,—

1. It shall be lawful for the magistrates and town council of Dundee as commissioners of police of the said burgh of Dundee to put in force the provisions of the "Lands Clauses Consolidation (Scotland) Act, 1845," in regard to the purchase and taking of lands otherwise than by agreement with reference to the lands delineated on the said plans and described in the said book of reference :

Provided always, that it shall not be lawful for the said magistrates and council or for any person having right through or from them, to build upon any portion of the lands to be acquired under this Order from the trustees of the congregation of St. Paul's Episcopal Church in Dundee.

2. The words "promoters of the undertaking" in the said "Lands Clauses Consolidation (Scotland) Act, 1845," shall be held to mean and include the magistrates and council of Dundee acting as commissioners foresaid for executing the said Act 13 & 14 Vict. cap. 33; and the word "lands" in this Provisional Order shall have the meaning assigned to it in the said "Lands Clauses Consolidation (Scotland) Act, 1845."

Given under my hand and seal at Whitehall this Thirtieth day of March 1867.

S. H. WALPOLE.

II.

DUNDEE.

General Police and Improvement (Scotland) Act, 1862
(25 & 26 Vict. c. 101.)

WHEREAS by the General Police and Improvement (Scotland) Act, 1862, 5
 it is, inter alia, enacted, section 79, that “ whenever it appears desirable to the
 “ magistrates and council or commissioners of police of any royal or parliamen-
 “ tary burgh, or to the commissioners for executing this Act in any burgh or
 “ populous place, that provision[should be made in order the better to apply and
 “ execute therein the provisions of this Act in whole or in part, or for the 10
 “ future application and execution of any Acts in force therein having relation
 “ to the purposes of this Act, or to the roads or streets within such burgh or
 “ populous place, or to any other matter or thing connected with the manage-
 “ ment and administration of the municipal or police affairs of any such burgh
 “ or populous place, or that any such Acts or any exemptions from rating 15
 “ therefrom derived, or that any Provisional Order or Order in Council apply-
 “ ing this Act hereby authorized to be made, should be wholly or partially
 “ repealed or altered,” “ the magistrates and council or the commissioners of
 “ any burgh, or the magistrates and council or commissioners of contiguous
 “ burghs, as the case may be, may present a Petition to one of Her Majesty’s 20
 “ Principal Secretaries of State, praying for such provision, repeal, and altera-
 “ tion as aforesaid, or for any of such things, and such Petition shall be supported
 “ by such evidence as the said Secretary requires ;” and “ it shall be lawful for
 “ any of Her Majesty’s Principal Secretaries of State to issue a Provisional
 “ Order under his hand and seal of office in relation to the several things men- 25
 “ tioned in the said Petition, either in accordance with the prayer thereof, or
 “ with such modifications or alterations as may appear to him to be requisite :”.

And whereas in the burgh of Dundee the magistrates and town council of
 said burgh are the commissioners of police therein appointed and acting under
 and in virtue of the Act 13. & 14 Vict. cap. 33, intituled “ An Act to 30
 “ make more effectual provision for regulating the police of towns and populous
 “ places in Scotland, and for paving, draining, cleansing, lighting, and improving
 “ the same :”

And whereas a Petition under the provisions of the said General Police and
 Improvement (Scotland) Act, 1862, has been presented to me, as one of Her 35
 Majesty’s Principal Secretaries of State, by the said magistrates council of Dundee
 as commissioners foresaid, setting forth that, for the better executing the said
 Act 13 & 14 Vict. cap. 33. within the said burgh of Dundee, it is desirable that
 the said magistrates and council as commissioners foresaid should be enabled to
 acquire under the provisions of the Lands Clauses Consolidation (Scotland) Act, 40
 1845, for the purchase of lands otherwise than by agreement, certain lands
 situated in or in the line of Bank Street of Dundee in order that the said
 magistrates and council may open up and complete said street, and provide a
 safe and convenient thoroughfare between Reform Street and Barrack Street in
 said burgh, and praying that a Provisional Order may be issued enabling the 45
 said magistrates and council to put in force the said provisions of the last-men-
 tioned Act with respect to the said lands, and that the said Order may be
 thereafter confirmed by Act of Parliament :

And

And whereas due inquiry having been directed and held in respect of the matters mentioned in the said Petition, I have resolved to grant the prayer thereof in respect to such portion of said lands as will be sufficient to enable the said magistrates in council to open up and complete Bank Street aforesaid
5 at an uniform width of thirty-eight feet from North to South; and a plan of the said lands, and a schedule relative thereto, containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of the lands and houses proposed to be taken, have been signed by me with reference to this Order, and have been deposited with the sheriff clerk of the county of
10 Forfar at his office in Dundee :

Now, therefore, in pursuance of the powers vested in me by the said General Police and Improvement (Scotland) Act, 1862, I, as one of Her Majesty's Principal Secretaries of State, do, by this Provisional Order under my hand and seal of office, direct that from and after the passing of any Act of
15 Parliament confirming the same,—

1. It shall be lawful for the magistrates and town council of Dundee as commissioners of police of the said burgh of Dundee to put in force the provisions of the "Lands Clauses Consolidation (Scotland) Act, 1845," in regard to the purchase and taking of lands otherwise than by agreement, with
20 reference to such portion of the lands delineated on the said plan, and described in the said schedule, as will be sufficient to enable the said magistrates and town council to open up and complete the street called Bank Street in said burgh at an uniform width of thirty-eight feet from North to South: Provided that nothing herein contained shall alter or affect the provisions of the
25 Ninetieth section of the last-mentioned Act.

2. The words "promoters of the undertaking" in the said "Lands Clauses Consolidation (Scotland) Act, 1845," shall be held to mean and include the magistrates and town council of Dundee acting as commissioners foresaid for executing the said Act 13 & 14 Vict. cap. 33; and the word "lands" in
30 this Provisional Order shall have the meaning assigned to it in the said "Lands Clauses Consolidation (Scotland) Act, 1845."

Given under by hand and seal at Whitehall, this Tenth day of July 1867.

L.S.

GATHORNE HARDY.

Dundee Provisional Orders Confirmation.

A

B I. I. I.

To confirm certain Provisional Orders under "The General Police and Improvement (Scotland) Act, 1862," relating to the Burgh of Dundee.

(Prepared and brought in by
Sir Graham Montgomery and Mr. Secretary
Guthorne Hardy.)

*Ordered, by The House of Commons, to be Printed,
15 July 1867.*

[Bill 257.]
Under 1 oz.

Duty on Dogs.

ARRANGEMENT OF CLAUSES.

Clauses.

1. From and after 5th April 1867 in England, and 24th May 1867 in Scotland, Assessed Taxes on Dogs to cease.
 2. Assessed Tax on Dogs kept within the year ending 5th April 1867 in England, and 24th May 1867 in Scotland, reduced to Seven Shillings.
 3. Duties of Excise to be paid on Dogs.
 4. Duties and Licences to be under the Management of the Commissioners of Inland Revenue.
 5. Licences to be in such Form as the Commissioners shall direct.
 6. Register of Licences to be kept.
 7. Commissioners to cause Notices to be fixed on Church Doors.
 8. Penalty for keeping a Dog without a Licence. Who shall be deemed the Keeper of a Dog.
 9. Penalty for not producing Licence.
 10. Act not to apply to Dogs under Age of Six Months.
-



A

BILL

TO

Repeal the Duties of Assessed Taxes on Dogs,
and to impose in lieu thereof a Duty of
Excise.

BE it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

- 1.** The Duties of Assessed Taxes payable in Great Britain under
and by virtue of the Act passed in the Sixteenth and Seventeenth
Years of Her Majesty, Chapter Ninety, for or in respect of Dogs
shall cease to be payable for or in respect of Dogs kept in England
after the *Fifth Day of April One thousand eight hundred and sixty-*
seven, or kept in Scotland after the *Twenty-fourth Day of May One*
thousand eight hundred and sixty-seven; and all the Provisions,
Rules, and Regulations, and Exemptions contained in the said Act,
or in any other Act relating to the said Duties, are hereby repealed,
save so far as the same respectively relate to Dogs kept in England
before, or on the said *Fifth Day of April One thousand eight*
hundred and sixty-seven, or kept in Scotland before or on the
[Bill 36.]
said

said *Twenty-fourth Day of May One thousand eight hundred and sixty-seven.*

Assessed
Tax on Dogs
kept within
the Year
ending 5th
April 1867
in England,
and 24th
May 1867 in
Scotland,
reduced
to Seven
Shillings.

2. The Duty of Assessed Taxes for or in respect of each Dog kept in England within the Year ending on the said *Fifth Day of April One thousand eight hundred and sixty-seven*, or kept in Scotland 5 within the Year ending on the said *Twenty-fourth Day of May One thousand eight hundred and sixty-seven*, is hereby reduced to *Seven Shillings* in lieu of Twelve Shillings now payable; and no Person shall be chargeable with Duty to any greater Amount than *Twenty-three Pounds Two Shillings* for any Number of Hounds, or *Five* 10 *Pounds Five Shillings* for any Number of Greyhounds, kept by him in such Years respectively.

Duties of
Excise to
be paid on
Dogs.

3. In lieu of the said Duties of Assessed Taxes, there shall be granted and charged in respect of Dogs kept in England after the said *Fifth Day of April One thousand eight hundred and* 15 *sixty-seven*, or kept in Scotland after the said *Twenty-fourth Day of May One thousand eight hundred and sixty-seven*, the following Duties, to be paid annually upon the taking out of the Licences herein-after mentioned :

For and in respect of every Dog, of whatever Description or 20 Denomination, (except Hounds kept in a Pack, as herein-after provided,) for which a Licence to keep the same shall be taken out under this Act, the annual Duty of *Five Shillings*, to be paid by the Person who shall keep such Dog :

For and in respect of Hounds kept in a Pack for which a Licence 25 shall be taken out under this Act,—

Where the Number shall not exceed Twenty, the Sum of *Five Pounds* ;

Where the Number shall exceed Twenty and shall not exceed Thirty, the Sum of *Seven Pounds and Ten* 30 *Shillings* ;

And where the Number shall exceed Thirty, then for every additional Number of Ten, and for any additional Number less than Ten, over and above Thirty (or any other greater Multiple of Ten), the further additional Duty 35 of *Two Pounds and Ten Shillings*,

To be paid by the Owner or Master of the said Hounds.

Duties and
Licences to
be under the
Manage-
ment of the
Commis-
sioners of

4. The said Duties and Licences shall be Excise Duties and Licences, and shall be under the Management of the Commissioners of Inland Revenue; and all the Powers, Provisions, Clauses, Regu- 40 lations, and Directions contained in any Act relating to Excise Duties or Licences, or to Penalties under Excise Acts, and now or hereafter

hereafter in force, shall respectively be of full Force and Effect with respect to the Duties hereby granted, and the Licences relating thereto, and the Penalties hereby imposed, so far as the same are applicable, and shall be observed, applied, and enforced for and in
 5 the collecting, regulating, and recovering of the Duties hereby granted, and the Licences relating thereto, and the Penalties hereby imposed, and otherwise in relation to the said Duties, Licences, and Penalties, so far as the same shall be consistent with and not superseded by the express Provisions of this Act, as fully
 10 and effectually as if the same had been herein repeated and specially enacted with reference to the said last-mentioned Duties, Licences, and Penalties respectively: Provided that nothing herein contained shall authorize the granting of a Licence under this Act upon Payment of a less Sum than the Duty for a whole Year.

Inland Revenue.

15 5. The Licences to be taken out under this Act shall be in such Form and shall be granted by such Officers of Inland Revenue as the Commissioners of Inland Revenue shall direct; and every Licence shall commence on the Day on which the same shall be granted, and shall terminate on the *Thirty-first Day of December*
 20 *following*.

Licences to be in such Form as the Commissioners shall direct.

6. Every Officer who shall be authorized to grant Licences under this Act shall keep a Register of all such Licences granted by him, specifying the Name and Place of Abode of every Person licensed, and the Number of Dogs which each Person shall be licensed to
 25 keep; and any Justice of the Peace, or Constable or other Officer of the Peace, may at any convenient Time inspect the Register of Licences granted for the current or preceding Year.

Register of Licences to be kept.

7. The Commissioners of Inland Revenue shall cause to be placed upon or near to the Door of every Church in Great
 30 Britain a printed or written Notice stating from whom Licences to keep Dogs can be obtained by Persons residing in the Parish or Place in which such Church is situated; and every such Notice shall be kept affixed upon or near to the Door of such Church for such Time as the said Commissioners shall direct: Provided
 35 that no Proceeding of any Kind, nor any Act done by any Person in pursuance of this Act, shall be deemed to be invalid or unlawful by reason of such Notice not having been placed or kept affixed as aforesaid.

Commissioners to cause Notices to be fixed on Church Doors.

8. If any Person shall keep a Dog without having in force
 40 a Licence granted under this Act authorizing him so to do, or shall keep a greater Number of Dogs than he shall be licensed to keep,

Penalty for keeping a Dog without a Licence.

Who shall
be deemed
the Keeper
of a Dog.

he shall for every such Offence forfeit the Sum of *Five Pounds*; and every Person in whose Custody, Charge, or Possession, or in whose House or Premises, any Dog shall be found or seen, shall be deemed to be the Person who shall keep such Dog, unless the contrary be proved.

5

Penalty for
not pro-
ducing
Licence.

9. If any Person who shall have taken out a Licence under this Act shall not produce and deliver such Licence to be examined and read by any Officer of Excise within a reasonable Time after such Officer shall request the Production of the same, he shall forfeit the Penalty of *Five Pounds*.

10

Act not to
apply to
Dogs under
Age of Six
Months.

10. The Duties imposed by this Act shall not be payable in respect of any Dog under the Age of *Six Months*.

Duty on Dogs.

A

B I L L

To repeal the Duties of Assessed Taxes on Dogs, and to impose in lieu thereof a Duty of Excise.

(Prepared and brought in by
Mr. Dodson, Mr. Hunt, and Mr. Chancellor of
the Exchequer.)

Ordered, by The House of Commons, to be Printed,
20 February 1866.

[Bill 36.]

Under 1 oz.



A

B I L L

TO

Repeal the Act of the Fourteenth and Fifteenth
Victoria, Chapter Sixty, intituled “An Act to
“ prevent the Assumption of certain Ecclesias-
“ tical Titles in respect of Places in the United
“ Kingdom.”

WHEREAS an Act was passed in the Fourteenth and Fifteenth Year of the Reign of Her present Majesty, intituled “An Act to prevent the Assumption of certain Ecclesiastical Titles in respect of Places in the United Kingdom :”

Preamble.
14 & 15 Vict.
c. 60.

5 Be it enacted by the Queen’s most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

1. From and after the *passing of this Act* the aforesaid Act of the Fourteenth and Fifteenth Victoria, Chapter Sixty, shall be and is hereby repealed.

Recited Act
repealed.

Ecclesiastical Titles Act Repeal.

A

BILL

To repeal the Act of the Fourteenth
and Fifteenth Victoria, Chapter Sixty,
intituled "An Act to prevent the
" Assumption of certain Ecclesiastical
" Titles in respect of Places in the
" United Kingdom."

(*Prepared and brought in by*
Mr. MacEvoy, Mr. McKenna, and Mr. Leader.)

Ordered, by The House of Commons, to be Printed,
22 March 1867.

[Bill 84.]

Under 1 oz.



A

B I L L

TO

Confirm a Provisional Order under the General Police and Improvement (Scotland) Act, 1862, relating to the City of Edinburgh.

WHEREAS the Secretary of State for the Home Department, being One of Her Majesty's Principal Secretaries of State, has, under the Provisions of the General Police and Improvement (Scotland) Act, 1862, (25 & 26 Vict. Cap. 101.)
5 duly made a Provisional Order, which is contained in the Schedule to this Act annexed; and it is provided by the recited Act that no such Order shall be of any Validity whatever until it has been confirmed by Parliament; and it is expedient that the said Order shall be so confirmed: Be it therefore enacted by the Queen's most
10 Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

1. The Provisional Order contained in the Schedule hereunto
15 annexed shall, from and after the *passing of this Act*, be absolute, and be as binding and of the like Force and Effect as if the Provisions of the same had been expressly enacted in this Act.

Preamble.

Provisional Order in Schedule.

[Bill 205.]

A

2. This

Short Title.

2. This Act may be cited for all Purposes as the "Edinburgh Provisional Order Confirmation Act, 1867;" and in citing any Section of the said Provisional Order it shall be sufficient to use the Words and Figures "Edinburgh Provisional Order," Section (specifying the Number of such Section).

5

SCHEDULE referred to in the foregoing Act.

EDINBURGH.

GENERAL POLICE AND IMPROVEMENT (SCOTLAND) ACT, 1862.
25 & 26 Vict. Cap. 101.)

WHEREAS the Police of the Royal Burgh and City of Edinburgh is regulated
5 by various Local Acts of Parliament, and specially by the Acts following; viz.,—
(1) the Act 11 & 12 Victoria, c. 113, the Short Title of which is, "The
" Edinburgh Police Act, 1848;" (2) the Act 17 & 18 Victoria, c. 118, the
Short Title of which is, "The Edinburgh Police Amendment Act, 1854;"
(3) the Act 19 & 20 Victoria, c. 32, the Short Title of which is, "The Edinburgh
10 " Municipality Extension Act, 1856;" and (4) various Clauses of "The General
" Police and Improvement (Scotland) Act, 1862," adopted by the Lord Provost,
Magistrates, and Council of the said Royal Burgh and City in pursuance of the
last-recited Act:

And whereas a Petition under the Provisions of the said General Police and
15 Improvement (Scotland) Act has been addressed to me, as One of Her Majesty's
Principal Secretaries of State, by the Lord Provost, Magistrates, and Council of
the said Burgh and City, under their Corporate Seal, praying that after the
Inquiry directed by the said Act a Provisional Order may be issued, altering
various Provisions of the said last-mentioned Act, so as the better to meet the
20 Requirements of the said Burgh and City, and making the same operative in
the said Burgh and City; repealing certain Parts of the said recited Local Acts;
and making Provision for regulating the future Application and Execution of
the said Order and recited Acts, and of other Acts in force within the said Burgh
and City, and for otherwise improving the sanitary Condition thereof:

25 And whereas it is expedient that various Provisions of the said General Police
and Improvement (Scotland) Act should be altered so as the better to meet
the Requirements of the said Burgh and City, and should be made operative
therein:

And whereas it is farther expedient that certain Parts of the said recited
30 Local Acts ought to be repealed, and that such Parts thereof should be specified
and set forth, and that Provision should be made for regulating the future
Application and Execution of the Provisions hereof, and of the said recited Acts,
and of other Acts in force within the said Burgh and City, and for otherwise
improving the sanitary Condition thereof:

35 And whereas an Inquiry has been directed and held in respect of the Matters
mentioned in the said Petition:

Now, therefore, in pursuance of the Powers vested in me by the said General
Police and Improvement (Scotland) Act, 1862, I, as One of Her Majesty's Prin-
cipal Secretaries of State, do, by this Provisional Order under my Hand, direct
40 that from and after any Act of Parliament confirming the same:—

ASSESSMENTS.

I.—*Assessments for Police Purposes.*

1. The Magistrates and Council shall annually, at a Meeting to be held on
the Second Monday of August, or at a Meeting to be held for the special Pur-
45 pose as soon thereafter as may be, estimate and fix the Sums of Money necessary
[205.] A 2 to
Expenses to
be estimated.

to be levied for the Year then current, under the several Heads of Watching, Lighting, Cleansing, Sanitary and other Purposes, including Officers Salaries, and other Expenses required for the Purposes of "The Edinburgh Police Act, 1848," "The Edinburgh Police Amendment Act, 1854," "The Edinburgh Municipality Extension Act, 1856," the Act 23 & 24 Vic. Cap. 50, intituled "An Act to abolish the Annuity Tax in Edinburgh and Montrose, and to make Provision in regard to the Stipends of the Ministers of that City and Burgh, and also to make Provision for the Patronage of the Church of North Leith [23d July 1860]," the Act 24 & 25 Vic. Cap. 27, intituled "An Act to declare the Limits within which increased Assessments are authorized to be raised in the City of Edinburgh under the Provisions of the Act 23 & 24 Vic. Cap. 50, [28th June 1861,]" and the Act of Parliament confirming this Provisional Order.

Magistrates
and Council
to make Police
Assessment.

2. On or before the last Monday in September in each Year the Magistrates and Council (being summoned by written or printed Summonses, which shall state that the Meeting is for the Purpose of laying on an Assessment) shall assess all Occupiers of Lands or Premises within the Burgh rented or valued at Five Pounds and upwards, according to the Valuation Roll made up and completed in Terms of the Acts in force for the Valuation of Lands and Heritages in Scotland, subject to the Exceptions herein-after provided, in the Sums necessary to be levied for the Purposes of the several Acts before referred to, and shall fix a Day on which the same shall be payable; and the Rate of Assessment and Day so fixed by the Magistrates and Council shall be published by Advertisement in any Newspaper circulating in the Burgh: Provided always, that such Assessment shall be imposed as from the Fifteenth Day of May in any One Year to the Fifteenth Day of May in the following Year, and shall be called the Police Assessment.

Differential
Rates of As-
sessment on
Rents under
and above 10^l.

3. Such Assessment shall not, exclusive of that Portion thereof authorized to be levied by the Act 23 & 24 Vic. Cap. 50, and the Act 24 & 25 Vic. Cap. 27, exceed in any Year a Rate equal to Tenpence in the Pound of the gross yearly Value of such Lands and Premises in so far as the same are rented or valued at Five Pounds and under Ten Pounds, and One Shilling and Threepence in the Pound of the gross yearly Value of such Lands or Premises in so far as the same are rented or valued at Ten Pounds and upwards: Provided also, that when Two or more Families or Persons live together as One Family, and when One Person occupies more than One Subject, the whole Police Assessment shall be made on the aggregate actual yearly Rent or Value of the Lands and Premises so occupied; and if any Person shall be in arrear of the Police Assessment, or any Portion thereof, on the First Day of March in any Year, One Penny upon each Pound of the Rental of the Lands or Premises in respect of which such Person is assessed, in addition to the Amount of the respective Assessments then due, shall be leviable from such Person by way of Penalty for Neglect or Failure in Payment, and the Magistrates and Council and their Collector are hereby authorized and required to levy and collect the same.

Provision as
to Acts
23 & 24 Vict.
c. 50. and
24 & 25 Vict.
c. 27.

4. Wherever by the Act 23 & 24 Vic. Cap. 50, and the Act 24 & 25 Vic. Cap. 27, any Powers are conferred or Directions are given, having reference to the Provisions of "The Edinburgh Police Act, 1848," and "The Edinburgh Municipality Extension Act, 1856," such Powers and Directions shall be construed as having reference to the Provisions of this Order and the Act confirming the said Order, in the same Way and Manner as if the said Order and Act had been also specified in the said recited Acts, 23 & 24 Victoria, Cap. 50, and

and 24 & 25 Victoria, Cap. 27, along with the said, "Edinburgh Police Act, 1848," and "The Edinburgh Municipality Extension Act, 1856."

5. Whereas by their existing Acts of Parliament the Edinburgh Water Company are empowered to fix, ascertain, and levy annual Water Rates or Rents, payable in advance, at Whitsunday yearly, from,—first, all and every Person or Persons whatsoever having Water conveyed to their private Houses from the Reservoirs and Pipes belonging to the Company, provided that such Rates or Rents shall not exceed Tenpence per Pound on the real Rent of the said Houses and other Premises as they may be assessed for the Police Tax for the City of Edinburgh for the Year for and in respect of which the Water is to be supplied, or, if without the Bounds of Police, upon Four Fifths of the actual Rent or annual Value of the said Premises; and, second, by Shopkeepers and Warehouse Holders requiring an ordinary supply of Water, having Water conveyed into their Shops or Warehouses from the Reservoirs or Pipes belonging to the Company, provided that such Rates or Rents shall not exceed One Pound Five Shillings per Centum on the real Rent of the said Shops or Warehouses, as they may be assessed for the Police Tax, which is in no Case to be calculated on a higher Rent than One hundred and twenty Pounds, and which Rates or Rents shall not be calculated on a Rent exceeding One hundred and twenty Pounds: And whereas the Police Assessment is at present leviable under the Provisions of "The Edinburgh Police Act, 1848," on Four Fifths of the actual yearly Rent or Value of the Subjects liable therefor: It is hereby provided, that nothing herein contained shall be held or construed in any Way to authorize the said Company, in virtue of any of their said Acts, to levy the said Water Rates or Rents on a larger Proportion than Four Fifths of the gross yearly Value of the Houses and other Premises, and of the Shops or Warehouses in respect of which such Water Rates or Rents may be levied within the City of Edinburgh: And it is further provided that, subject to the above Provision, nothing herein contained shall be held or construed to diminish, enlarge, or in any Way affect the Powers at present possessed by the Edinburgh Water Company in relation to the fixing, ascertaining, and levying the Water Rates or Rents exigible by them under the Provisions of any of their Acts.

Provision as to Edinburgh Water Company.

6. Out of the Police Assessment it shall be lawful to the Magistrates and Council to defray, to such Extent as they think proper, such Claims for Damages sustained in consequence of any Riot or Tumult within the Burgh as may be established to their Satisfaction, or, if the Magistrates and Council think proper, they may at any Time impose and levy a special Assessment, to be called the "Mob Assessment," along with or in the same Way and Manner as the Police Assessment, on all Occupiers of Lands or Premises within the Burgh, according to the said Valuation Roll, for the Sums estimated by them to be necessary for the Purpose of paying such Damages; and such special Assessment being so imposed and levied, the Magistrates and Council shall out of the Proceeds thereof discharge such Claims, the same being established to their Satisfaction.

Payment of Damages occasioned by Mobs.

7. The Police Assessment and "Mob Assessment" and the "General Improvement Rate" herein-after authorized to be levied shall not be imposed in respect of any Building which is solely occupied for the Purposes of public Charity, nor any Place occupied exclusively for Public Worship, nor any Building occupied by Scientific or Literary Societies, which shall have been or may be exempted from Rates in Terms of an Act passed in the Sixth and Seventh Years of the Reign of Her present Majesty, intituled "An Act to

Certain Premises not to be assessed.

6 & 7 Vict. c. 36.

"exempt from County, Borough, Parochial, and other Local Rates, Land and Buildings occupied by Scientific or Literary Societies," nor the Royal Palace

of Holyrood, nor Houses or Buildings in the Castle of Edinburgh, nor Queensberry House, Canongate, when occupied as an Hospital or as a Barrack for Her Majesty's Troops, nor the Courts of Justice, General Register House, City Chambers, County Buildings, Prison of Edinburgh, nor the Public Markets, nor the University of Edinburgh and the Buildings connected therewith, except those Parts which are used as Dwelling Houses, nor the Free Church College and the Buildings connected therewith, except those Parts which are used as Dwelling Houses, nor the Buildings in Queen Street belonging to the United Presbyterian Church, except those Parts which are used as Dwelling Houses, nor the Museums of the Royal College of Physicians and Surgeons, as long as they respectively shall remain open gratuitously to Persons pursuing the Study or Practice of Medicine, nor the Veterinary College, nor the High School of Edinburgh, nor the Edinburgh Academy, nor any Sessional, Parochial, or Charity School, nor Dr. Bell's Schools, nor the Dwelling House or Schoolroom occupied by any Teacher, the actual annual Rent of which, if forming One Subject, or the aggregate actual annual Rent of which, if occupied separately, does not amount to Twenty Pounds.

Magistrates and Council may grant Relief from certain Assessments in case of Poverty.

8. The Magistrates and Council may, on the Ground of the Poverty or Inability to pay of any Person liable in the Police Assessment and "Mob Assessment" or of the "General Improvement Rate," remit, in whole or in part, Payment of the said Assessments or Rate by such Person, in such Manner as the Magistrates and Council shall in their Discretion think just and reasonable.

Occupiers to pay Police and Mob Assessments.

9. The Police Assessment and Mob Assessment herein authorized to be imposed may be levied from the Occupiers of Lands or Premises, but Deduction may be allowed by the Magistrates and Council of the said Assessments for any Period during which any Lands or Premises shall not be let or occupied for Three Months consecutively in any One Year, and Owners who shall let for Rent or Hire Lands or Premises for less than a Year shall themselves, as well as the Occupiers, be responsible for the said Assessments, and the same may be recovered from such Owners or from such Occupiers as the Magistrates and Council shall judge expedient; provided always, that the Occupier of any Lands or Premises let for a Period less than a Year, by whom the said Assessments shall be paid, shall be entitled to deduct from the Rent payable to the Person by whom the said Lands or Premises shall be so let the Amount of the said Assessments in excess of the Proportion thereof applicable to the Period of his Occupancy.

Arable Land, &c. how to be valued.

10. The annual Value of the following Lands or Premises shall, for the Assessments and Rates herein authorized, be held to be the nearest aggregate Sum of Pounds Sterling to One Fourth of the annual Value thereof entered in the said Valuation Roll; viz.

1. All Lands and Premises used exclusively as a Canal or Basin of a Canal, or Towing-path for the same, or as a Railway constructed under the Powers of any Act of Parliament for public Conveyance, excepting the Stations, Depôts, and Buildings, which shall be assessable to the same Extent as other Lands and Premises within the Burgh;
2. All the underground Gas and Water Pipes or underground Works of any Gas or Water Company;
3. All Woodland, Arable, Meadow, or Pasture Ground, or other Ground used for Agricultural Purposes;

And in the event of any Dispute arising as to the Lands and Premises falling under the above Exceptions, it shall be lawful to the Owner or Occupier of such Lands

Lands and Premises to present a Petition to the Sheriff, praying to have the same declared for the Time being liable to Assessment upon the said Proportion of their Value only; and the Sheriff shall thereupon order the Petition to be served on the Magistrates and Council upon a short Inducia, and after
5 hearing Parties, and taking such Evidence as he shall think necessary, shall pronounce such Judgment as to him shall seem just and right.

11. The Magistrates and Council shall annually cause to be made up a Roll or Book of Assessment from the Valuation Roll aforesaid, showing the yearly Rent or Value of the Lands or Premises in the Burgh liable to be assessed for
10 the Assessments and Rates authorized to be levied under the Provisions hereof, and of the several Acts of Parliament following; viz.,—the Act 17th & 18th Victoria, Cap. 80, intituled “An Act to provide for the better Registration of
“Births, Deaths, and Marriages in Scotland [7th August 1854];” the Act 17th & 18th Victoria, Cap. 91, intituled “An Act for the Valuation of Lands
15 “and Heritages in Scotland [10th August 1854];” the Act 17th & 18th Victoria, Cap. 106, intituled “The Militia (Scotland) Act, 1854;” the Act 19th & 20th Victoria, Cap. 58, intituled “An Act to amend the Law for the
“Registration of Persons entitled to vote in the Election of Members to serve in
“Parliament for Burghs in Scotland [21st July 1856];” the Act 19th & 20th
20 Victoria, Cap. 103, intituled “The Nuisance Removal (Scotland) Act, 1856;” the Act 23rd & 24th Victoria, Cap. 79, intituled “The Sheriff Court Houses
“Act, 1860;” the Act 23rd & 24th Victoria, Cap. 105, intituled “The Prisons
“ (Scotland) Administration Act, 1860;” the Act 29th Victoria, Cap. 2, intituled “The Cattle Diseases Prevention Act, 1866,” or any Amendments of the
25 said Acts, or for any other Assessments or Rates leviable by the Magistrates and Council, and which they may direct, or which may be directed by any Act of Parliament, to be levied along with the Police Assessment, or with the Assessment for Prison Purposes, and according to which Roll or Book such Assessments or Rates, or any of them, are intended to be levied; and in such
30 Roll or Book of Assessment there shall in no Case be entered any fractional Part of a Pound of the assessable yearly Rent or Value aforesaid; and when such fractional Part shall not amount to Ten Shillings the Sum shall not be entered at all in such yearly Rent or Value; and when such fractional Part shall amount to or exceed Ten Shillings the Sum shall be entered as One Pound
35 of such yearly Rent or Value, in addition to the actual Number of Pounds of such Rent or Value, and shall be assessed accordingly; and such Roll or Book of Assessment shall be open to Inspection by all Ratepayers, in the Hands of the Collector or other Officers appointed by the Magistrates and Council for that Purpose; and the Magistrates and Council shall have Power to rectify any
40 Error which may be found in such Roll or Book.

12. If any Person assessed under the Provisions hereof, or of any of the Acts before recited or referred to, shall refuse or neglect to pay any Assessment or Rate authorized to be levied hereby, or by any of the said Acts, or any other Assessment or Rate leviable by the Magistrates and Council, and which they
45 may direct, or which may be directed by any Act of Parliament, to be levied along with the Police Assessment, or with the Assessment for Prison Purposes, or any Portion thereof, on or before the Expiry of Three Months after such Assessments or Rates are respectively declared payable, the Collector may make an Attestation, written or printed, or partly written and partly printed,
50 setting forth that the said Person has failed to pay such Assessments or Rates, or any Portion thereof, notwithstanding the same has been demanded from him by the said Collector by a Notice delivered to or left for him on the Premises

Assessment
Roll to be
made up.

Recovery of
Assessments
and Rates.

in respect of which such Assessments or Rates are made, or at his Dwelling House or Place of Business ; and such Attestation being made it shall be lawful for the Collector to make Application to the Sheriff, who, upon such Application, and Production therewith of such Attestation, shall grant summary Warrant for Recovery of the said Assessments or Rates, or the Portion thereof remaining unpaid, and also for Recovery of One Penny upon each Pound of the Rental of the Lands or Premises in respect of which such Person is assessed in addition, in Name of Penalty, if such Penalty shall have been incurred by Nonpayment of the Police Assessment, or any Portion thereof, previous to the First Day of March, as herein-before provided, which Attestation, Application, and Warrant shall be in the Form, as near as may be, contained in Schedule (A.) hereunto annexed: Provided always, that nothing herein contained shall prejudice the Right of the Collector at any Time after the said Assessments or Rates shall be payable, and that either before or after such Warrant shall have been obtained, to prosecute, as he is hereby empowered to prosecute for, and recover before the Sheriff's Small Debt Court, or by any other legal Form of Proceeding, all or any Part of such Assessments or Rates in arrear, with the Addition, if such Prosecution or Proceeding for the Police Assessment, or any Portion thereof, shall not have been instituted previous to the First of March, of One Penny upon each Pound of the Rental of the Lands or Premises in respect of which the Person so in arrear is assessed in Name of Penalty: As also provided, that the levying and recovering, under and in virtue of the Provisions hereof, of any Assessments or Rates along with the Police Assessment, or with the Assessment for Prison Purposes, shall not prejudice any Right of Preference attaching to such Assessments or Rates in virtue of any Act or Acts of Parliament applicable thereto, but that such Right of Preference shall remain and receive Effect as if the said Assessments or Rates had been levied and recovered in Terms of the Act or Acts of Parliament applicable thereto respectively: And the Collector shall be bound to preserve the Warrants of all Seizures or Sales made under and in virtue hereof, and shall enter in a Book to be kept for that Purpose the Names of the Parties proceeded against, the Assessments or Rates due, the Expense of the Proceedings, and the true Proceeds of each Sale, which Book shall be open to the Inspection (without any Fee) of all Parties interested for Three Months after the Date of each Sale respectively; and at any Time within that Period it shall be competent to any Party considering himself aggrieved to complain to the Sheriff of anything done unjustly or oppressively in regard to such Seizure or Sale, such Complaints being made in the Form of Petitions subscribed by the Complainer, and the Decision of such Sheriff shall be final.

Misnomers,
&c. not to
affect Proceed-
ings for Re-
covery of
Assessments.

13. No Misnomer, Mistake, or Informality committed in any Proceedings for Recovery of such Assessments or Rates, or any other Assessment, Rate, Charge, or Expenses under the Provisions hereof, shall prejudice the Recovery thereof, nor shall such Proceedings fall, lapse, cease, or abate by the Death, Resignation, or Removal of the Collector instituting the same, or by any Change in the Persons holding Office as Magistrates and Council, but it shall be lawful for the Collector for the Time to prosecute and follow forth Procedure commenced and carried on in the Name of any previous Collector in all respects as if such Procedure had been taken by himself: Provided always, that it shall not be competent for any Person to sue, nor for any Court of Law to entertain any Action or Proceeding, against the Magistrates and Council, or the Collector or Officers or other Persons employed in executing any Warrant in reference to any Assessment, Rate, Charge, or Expense under the Provisions hereof, or of

of any of the Acts before recited or referred to, or to any Assessments or Rates leviable by the Magistrates and Council, and which they may direct, or which may be directed by any Act of Parliament, to be levied along with the Police Assessment, or with the Assessment for Prison Purposes, by reason of any

- 5 Misnomer, Mistake, or Informality, if the Goods or other Effects seized or sold under such Warrant were bonâ fide the Property or in the lawful Possession of the Person actually liable in Payment thereof.

14. In case any Person liable in Payment of the Assessments or Rates authorized to be levied under and in virtue of the Provisions hereof, or of any
10 of the Acts before recited or referred to, or any other Assessments or Rates leviable by the Magistrates and Council, and which they may direct, or which may be directed by any Act of Parliament, to be levied along with the Police Assessment or with the Assessment for Prison Purposes, shall remove to any Place beyond the Burgh, it shall nevertheless be lawful for the Magistrates
15 and Council, and their Collectors or other Officers, to put the Decrees and Warrants which may be granted for the Recovery of such Assessments or Rates in manner before mentioned into execution within or beyond the Burgh, in the same Manner as if such Person had continued to reside within the Burgh, such Decrees or Warrants being first endorsed by a Magistrate or Sheriff or Justice
20 of the Peace for the Burgh or County within which they are to be put into execution.

Assessments to be recoverable beyond Burgh.

II. Assessments for Sewers, and General and Private Improvements.

(1.) Sewers.

15. Whenever the Magistrates and Council have formed any Sewer within the
25 Burgh under the Provisions of "The Edinburgh Police Act, 1848," "The "Edinburgh Police Amendment Act, 1854," and "The Edinburgh Municipality "Extension Act, 1856," or have sanctioned the Formation otherwise of any Sewer for the Benefit of any particular District in the Burgh, or shall resolve to make or ventilate any new Sewer under the Provisions hereof, they may charge the
30 Owners of all the Lands or Premises liable to contribute to the Rates for making the same, or who would have been liable to contribute to the Rates for making the same, had such Sewer been formed under the Provisions hereof, with Special Sewer Rates, over and above any other Assessment or Rates to which such Persons may be liable under the Provisions hereof, and such Rate shall, for the
35 Purposes of this Act, be called the "Special Sewer Rate."

Where new Sewers are made Magistrates and Council may impose a Special Sewer Rate.

16. The Magistrates and Council shall, if necessary, impose a Sewer Rate, to be called for the Purposes hereof the "General Sewer Rate," distinct from any other Rate which they are herein authorized to make, to be applied in maintaining, ventilating, and clearing the Sewers, and all other Expenses connected with
40 such Sewers not herein otherwise provided for, or which may not be fully defrayed by the Special Sewer Rate, and for securing and paying off any Monies which may be borrowed on the Security of the Special Sewer Rate under the Provisions hereof, and the Interest of such Monies which the Special Sewer Rates shall be insufficient to defray.

Magistrates and Council may impose a General Sewer Rate distinct from other Rates.

17. The Magistrates and Council may from Time to Time make Assessments in respect of the said Special Sewer Rate and General Sewer Rate hereby authorized to be levied on the Owners of all Lands or Premises within the Burgh, or within separate and distinct Districts, and that in reference to the Valuation of such Lands or Premises as fixed by the Valuation Roll; and in every Case in
50 which the Magistrates and Council shall see fit to make the said Assessments or

Magistrates and Council may assess.

either of them, on separate and distinct Districts, they shall cause every such District to be described and defined as herein-after provided.

Separate Accounts to be kept in relation to Rates to be levied on separate Districts.

18. The Magistrates and Council, in making the said Assessments for separate and distinct Districts, shall cause separate and distinct Accounts to be kept of all Monies collected and received under any Rate in each distinct District, and of all Payments and Disbursements in respect thereof, and they shall apply the Monies to be collected and received from each distinct District under any such Rate as aforesaid for the several Purposes to which the same may be lawfully applied under the Authority of this Act, but so nevertheless that each District shall, as near as may be, bear its own Expenses; and in case any such Expenses shall apply to or be incurred in respect of Two or more Districts the same shall be apportioned and divided between such Districts, in such Manner as the Magistrates and Council shall consider fair and equitable.

Where Premises were sufficiently drained before making new Sewer, Owner to have a Reduction in his Rates.

19. Where, in the Judgment of the Magistrates and Council, any Premises were sufficiently drained before the making of such new Sewer, the Owners thereof shall be entitled to have such Deduction made from the Special Sewer Rates to which they would otherwise be liable in respect of the making of such new Sewer, having regard to the Cost of making such new Sewer, and to the Value and Efficiency of such old Sewer; and whenever any old Sewer is enlarged, or open Sewer closed, the Expense of such Enlargement, or of closing such open Sewer, shall be defrayed in like Manner as if it had been incurred in making a new Sewer.

(2.) *General Improvements.*

General Improvement Rate.

20. To enable the Magistrates and Council to make Provision for effecting Improvements in the Burgh, it shall be lawful for them to charge, in equal Proportions, all Owners and Occupiers of Lands or Premises within the Burgh, with reference to the said Valuation Roll, with a Special Assessment equal to but not exceeding One Penny in the Pound of the gross yearly Value of such Lands or Premises, over and above any other Assessment or Rate to which such Persons may be liable under the Provisions hereof, and which Special Assessment shall, for the Purposes hereof, be called the "General Improvement Rate," and shall be leviable either from the Owner or Occupier of such Lands or Premises in equal Proportions, or in whole from the Occupiers thereof, but in the latter Case the Occupier shall be entitled on Payment thereof to deduct from his Rent the Proportion payable by the Owner: Provided always, that when the aggregate actual yearly Rent or Value of the Lands and Premises in respect of which any Occupier is entered in the said Valuation Roll is under Five Pounds, the Magistrates and Council may remit the whole or any Part of the "General Improvement Rate," so far as chargeable against such Occupier; and such Assessment shall be imposed and levied in the same Manner as, and along with, the Assessment for Prison Purposes, and shall be recoverable both from Owners and Occupiers, in such and the like Manner as the Police Assessment is authorized to be recovered from the Occupiers.

(3.) *Private Improvements.*

Assessment for private Improvements.

21. Where by the Provisions hereof, or of "The Edinburgh Police Act, 1848," "The Edinburgh Police Amendment Act, 1854," "The Edinburgh Municipality Extension Act, 1856," or any other Local or General Act in force within the Burgh from Time to Time, the Owner or Occupier, as the Case may be, of any Premises is directed or fails to do any Work, Matter, or Thing in relation to the same,

same, and the Work, through the Failure or Delay of the Owner or Occupier to execute it, shall be done by the Magistrates and Council, or, where Expenses are incurred by the Magistrates and Council for or in respect of any Premises in order to carry out the Provisions hereof or any of the said Acts, the Magistrates
 5 and Council shall charge the Owner or Occupier of the Premises with the said Expenses, or Special Rates therefor, over and above any other Assessments or Rates to which such Owner or Occupier may be liable under the Provisions hereof, or of any of the said Acts, and such Expenses or Special Rates shall, for the Purposes hereof and of the said Acts, be called the "Private Improvement
 10 " Assessment."

22. Such Special Sewer Rate, General Sewer Rate, and Private Improvement Assessment shall, with Interest thereon at the Rate of Five per Centum per Annum from the Time when the same shall be declared payable, together with all Expenses incurred in the Recovery thereof, continue Burdens on the Lands or
 15 Premises liable for the same, or in respect of which the same shall be payable, but that only for Three Years from the Date when the same shall be respectively payable, as against bonâ fide singular Successors or heritable Creditors: Provided always, that nothing herein contained shall affect the Rights and Remedies of Superiors for the Recovery of their Feu Duties and Casualties.

Certain Rates and Assessment to be Burdens on the Premises.

23. The Collector shall, when required by any Person, be bound to furnish to such Person a Certificate under his Hand, in the Form of Schedule (E.) annexed, to "The General Police and Improvement (Scotland) Act, 1862," showing, with reference to any Premises, what Arrears of such Rates or Assessments, if any, are past due, and the Name of the Owner and Occupier of such
 25 Premises as appearing in his Books, and also whether any and what Instalment of such Rates or Assessments are still chargeable in respect of such Premises: Provided always, that for each Certificate in respect of Premises separately entered or charged in the Assessment Books he shall be entitled to a Fee of One Shilling from the Person requiring the same; for which Fee, or for such
 30 Portion thereof as the Magistrates and Council may direct, the Collector shall be bound to account to the Magistrates and Council.

Collector of Rates to grant Certificate.

24. The said Rates or Assessments may be imposed and levied yearly, half-yearly, or at such other Periods as the Magistrates and Council may think fit, and shall be payable at such Times as they appoint; and at the Meeting
 35 imposing the same the Magistrates and Council shall appoint a Day on which such Rates or Assessments shall be payable, and another Day on which Appeals by any Parties complaining that they have been improperly rated or assessed may be lodged with the Collector, and another Day or Days on which Appeals in reference to such Rates or Assessments shall be heard by the Magistrates
 40 and Council; and Notice to each Party intended to be so rated or assessed, stating the Particulars of the intended Rate or Assessment as regards such Party, and specifying the several Days fixed by the Magistrates and Council as aforesaid, shall be sent by the Collector through the Post Office or otherwise served upon such Party, at least Two Weeks preceding the Day which may be
 45 fixed for hearing the Appeal of such Party, and the Decision of the Magistrates and Council sustaining or dismissing such Appeals in whole or in part shall be final, but the Magistrates and Council may rectify such Rate or Assessment so appealed against.

Rates and Assessments how to be imposed, and how Appeals to be entered and disposed of.

25. As soon as may be after disposing of the Appeals against any such Rate or Assessment, the Magistrates and Council shall cause to be made up a Roll or Book of Assessment, or separate Rolls or Books of Assessments, applicable thereto; and the same, or a Copy thereof, docketed and signed by the Clerk

Recovery of the said Rates and Assessments.

and by the Lord Provost and Treasurer of the City, shall forthwith be delivered over to the Collector as the Rule for levying and collecting the said Rates or Assessments ; and if the said Rates or Assessments shall not be paid when the same fall due, the Collector shall take legal Proceedings for Recovery of the same, together with Interest thereon, at the Rate of Five per Centum per Annum, from the Day fixed for Payment thereof as aforesaid, in the same Way and Manner as is herein-before provided for Recovery of the Police Assessment ; or the said Rates or Assessments, or any Part thereof, and Interest, with the Expenses attending the Recovery of the same, may be recovered in the same Way and Manner as Debts are recoverable by the Law of Scotland. 10

Application of
Surplus As-
sessment.

26. If any Surplus of any Rate or Assessment under the Provisions hereof shall remain at the End of any Year after the whole Expenses for which such Rate or Assessment was imposed and levied shall have been paid or provided for, every such Surplus respectively shall, except as herein-after provided for, be applied towards the same Purpose in the Year following; and if any such Rate or Assessment for any Year shall not be sufficient for the Purpose for which it was imposed and levied, the Magistrates and Council shall and they are hereby authorized and required to make Provision for the Payment of such Deficiency either by taking the same into account in fixing the Rate of Assessment for the like Purpose in the following Year or Years, or by a separate Assessment or Rate for the Purpose in the following Year or Years, until the same shall be fully paid. 15 20

ORDINARY POLICE PURPOSES.

1. *Lighting.*

Owners to
provide Lamps
for common
Stairs, &c.

27. The Owner or Owners of Common Stairs or Passages or private Courts, or of Lands or Premises having a Right of Access by any Common Stair or Passage or private Court, shall, when required by the Magistrates and Council, within Seven Days next after Service of an Order for that Purpose, make Provisions for lighting such Common Stair or Passage or Court in a suitable Manner, and for that Purpose provide and erect all necessary Lamps, and alter, repair, and renew such Lamps, to the Satisfaction of the Magistrates and Council ; and in default of Compliance with any such Order such Owner or Owners shall be liable to a Penalty not exceeding Forty Shillings for every Day that he or they shall so make Default. 25 30

Penalty for
not keeping
common
Stairs, &c.
lighted.

28. If the Lamp or Lamps which may be erected in any such Common Stair or Passage or private Court is or are not regularly cleaned and lighted during such Hours as are from Time to Time fixed by the Magistrates and Council, by the Occupier of any Building or Part of a Building to which Access is obtained by such Common Stair or Passage or private Court, every such Occupier failing to do so, whether under Obligation by Contract, or in virtue of this Provision, shall be liable to a Penalty not exceeding Ten Shillings for each Offence. 35 40

2. *Cleansing Streets.*

Dust Boxes
may be
erected.

29. The Magistrates and Council, if they think fit so to do, may cause any Number of moveable or fixed Dust Boxes or other Conveniences, wherein Dust, Fulzie, and Ashes may be deposited until removed and carried away, to be provided and placed in such Streets or Courts as they shall think proper, and may, if they think proper so to do, require the Occupiers of Premises within such Streets or Courts to cause all their Dust, Fulzie, and Ashes to be deposited daily 45

daily in the said Dust Boxes or other Conveniences, and every Person who, being so required, shall fail to deposit or cause to be deposited, any Ashes, Fulzie, or Dust in some of such Dust Boxes or other Conveniences, shall for every Offence be liable to a Penalty not exceeding Ten Shillings.

- 5 30. The Magistrates and Council may from Time to Time fix the Hours within which only it shall be lawful to remove offensive Matter from any Premises; and when the Magistrates and Council have fixed such Hours, and given public Notice thereof in such Manner as they may deem proper, every Person who removes along any such Street any offensive Matter at any Time
10 except within the Hours so fixed, and every Person who at any Time, whether such Hours have been fixed by the Magistrates and Council or not, uses for any such Purpose any Cart or Carriage not having a Covering proper for preventing the Escape of the Contents of such Cart, or of the Stench thereof, or who wilfully spills any such offensive Matter in the Removal thereof, or who
15 does not carefully sweep and cleanse every Place in which any such offensive Matter has been placed or unavoidably spilled, shall for every such Offence be liable to a Penalty not exceeding Forty Shillings; and in default of the Apprehension of the actual Offender, or in the Case of the actual Offender not being found within the Burgh, the Driver or Person having charge of the
20 Cart or Carriage employed for any such Purpose, shall be deemed to be the Offender.

Penalty for conveying offensive Matter at improper Hours.

31. Clause One hundred and ninety-two of "The Edinburgh Police Act, 1848," is hereby amended to this Extent, that a Certificate signed by the Medical Officer of Health for the Time, or by a duly qualified Medical Practitioner
25 appointed by the Magistrates and Council for that Purpose, shall be in every respect equivalent to a Certificate signed by Two legally qualified Medical Practitioners.

Nuisances may be removed on Certificate of Medical Officer of Health.

III. Paving and Maintaining Streets.

32. Every Person who (except for the Purpose of ordinary Repairs) wilfully
30 displaces, takes up, or makes any Alteration in the Pavement, Flags, or other Materials of any Street or Court, without the Consent of the Magistrates and Council in Writing, or without other lawful Authority, shall be liable to a Penalty not exceeding Five Pounds, and also a further Sum not exceeding Five Shillings, for every Square Foot or Part of a Square Foot of the paved
35 Flags or other Materials of the Street or Court exceeding One Square Foot so displaced, taken up, or altered; and any Persons having Authority to take up the Pavement, Flags, or other Materials of any Street or Court shall be bound to restore the same, in a substantial Manner and to the Satisfaction of the Magistrates and Council; failing which, the Magistrates and Council shall have
40 Power to restore the Pavement, Flags, or other Materials at the Expense of such Persons and to enforce Payment thereof.

Penalty on Persons altering Pavements without the Consent of the Magistrates and Council.

IV. Improving Streets and Removing Obstructions.

33. The Magistrates and Council may allow, upon such Terms as they think fit, any Building within the Burgh to be set forward for improving the Line of
45 the Street in which such Building or any Building adjacent thereto is situated: Provided always that One Month's previous Notice of their Intention so to do shall be given, by Public Advertisement, in any One or more Newspapers circulating in the Burgh.

Houses may be set forward for improving Line of Street.

34. The Magistrates and Council may, at a Meeting to be held for the Purpose,
50 resolve to acquire Lands or Premises within the Burgh for the Purpose of

Power to purchase Houses, &c. for adding

tional Improvements.

Magistrates and Council may acquire Premises for sanitary Purposes.

Houses projecting beyond Line of Street, when taken down, to be set back.

Notice of Intention to lay out new Streets to be given to Magistrates and Council.

Level and Width to be fixed by Magistrates and Council.

widening, enlarging, or otherwise improving any of the Streets, Courts, or Closes, and they may re-sell any Parts of such Lands or Premises which shall not be required for such Purposes; and they may also drain, repair, pave, or otherwise improve Streets, Courts, and Places where there may be Doubt as to the Liability of Owners to execute such Works; and when Wooden or other 5 Erections extend into or project over Streets, Courts, or Places so as to interfere with Ventilation, or to interrupt Light, or to be otherwise objectionable, on sanitary Grounds, the Magistrates and Council may cause such Erections or Projections to be removed, making Compensation to the Owner as after provided for such Damage as he may sustain by such Removal; but such Compensation 10 shall only be made when the Owner had a legal Right to make or maintain such Erection or Projection; and in Localities within the Burgh, when Houses or other Buildings are, in the Opinion of the Magistrates and Council, built too close to each other, or have become waste and ruinous, or are liable to other Objections on sanitary Grounds, it shall also be lawful to the Magistrates and 15 Council to resolve to acquire, and to acquire Lands or Premises, for the Purpose of reserving them as vacant Spaces, or of opening up Thoroughfares, or of improving the Buildings or of otherwise disposing of them so as to improve the sanitary Condition of such Localities; and the Expense of such Acquisitions and Improvements shall be a Charge against the General Improvement Rate herein- 20 before authorized to be levied: Provided always, that the Magistrates and Council may, if they shall think fit, resolve that the same shall be charged, and they are hereby empowered to charge the same, against the Police Assessment.

35. When any House or Building, any Part of which projects beyond the regular Line of the Street, or beyond the Front of the House or Building on 25 either Side thereof, has been taken down in order to be altered, or is to be rebuilt, the Magistrates and Council may require the same to be set backwards to or toward the Line of the Street, or the Line of the adjoining Houses or Buildings, in such Manner as the Magistrates and Council may direct, for the Improvement of such Street: Provided always, that the Magistrates and Council 30 shall make full Compensation to the Owner of any such House or Building for any Damage he thereby sustains, which Compensation may be settled in the same Manner as Compensation for Land to be taken under the Provisions of the "Lands Clauses Consolidation (Scotland) Act, 1845," is directed to be settled, and shall form a Charge against the General Improvement Rate: Provided 35 always, that the Magistrates and Council may resolve that the same shall be charged, and they are hereby empowered to charge the same, against the Police Assessment.

V. Laying out New Streets.

36. Every Person who intends to make or lay out any new Streets shall give Notice thereof to the Magistrates and Council, in order that the Level and 40 Width of such Street may be objected to by the Magistrates and Council if unsuitable as far as respects Drainage or on other sanitary Grounds: Provided always, that where any such Street is, at the Time of the passing of the Act confirming this Order, the Subject of any Contract for the Formation thereof then existing, the same shall not be held or taken to be a new Street within the 45 Meaning hereof.

37. The Level and Width of every such new Street shall be considered and determined on by the Magistrates and Council within Six Weeks after the Delivery of such Notice, but subject to Appeal to the Sheriff, if such Appeal shall be entered within Three Weeks from the Date of Intimation of such 50 Deliverance by the Magistrates and Council; and the Decision of the Sheriff, if such

such Appeal be taken, or such Deliverance by the Magistrates and Council if not appealed to the Sheriff, shall be final; and the Level and Width so fixed shall be kept thereafter by every Person erecting any House or other Building in such Street.

- 5 38. If the Magistrates and Council do not fix such Level and Width within Six Weeks from the Time of the Delivery of such Notice as aforesaid, the Person giving such Notice may proceed to lay out such Street at any Level and Width which will allow of Compliance with the other Provisions of this Act, as if such Level and Width had been fixed by the Magistrates and Council; and in such
- 10 Case every Change of the Level and Width which the Magistrates and Council afterwards deem requisite, and the Works consequent thereon, shall be made by the Magistrates and Council, and the Expense thereof, and any Damage which any Person sustains in consequence of such Alteration, shall be defrayed by them out of the Police Assessment.

If Magistrates and Council fail to fix the Level and Width, the Party may proceed without.

- 15 39. Every Person who makes or lays out any such new Street as aforesaid, without causing such Notice to be given to the Magistrates and Council as aforesaid, shall be liable to defray all the Expenses consequent upon any Change of the Level and Width of such Street deemed requisite by the Magistrates and Council; and every Person who in building any House or
- 20 other Building in such Street does not keep the Level and Width fixed by the Magistrates and Council, shall be liable to defray all the Expenses consequent upon any Alteration on any such House or Buildings, or any Change of the Level and Width of that Part of such Street on which such House or Building abuts, which the Magistrates and Council deem requisite.

Persons laying out Streets without Notice to be liable to the Expenses of subsequent Alterations of Level and Width.

- 25 40. If the Magistrates and Council deem it necessary to raise, lower, or otherwise alter the Situation of any Water Pipe or Gas Pipe, or other Waterworks or Gasworks laid in any such Streets, they may from Time to Time, by Notice in Writing, require the Person to whom any such Pipes or Works belong to cause forthwith any such Pipes or Works to be raised, lowered, or otherwise
- 30 altered in Position in such Manner as the Magistrates and Council may direct; provided that such Alteration be not such as permanently to injure such Works, or to prevent the Water or Gas from flowing as freely and conveniently as before; and the Expenses attending such raising, lowering, or altering, and Compensation for every Damage done thereby, shall be paid by the Magistrates and Council out of the Police Assessment, or other Rates or Assessments, as the
- 35 Case may be, as well to the Persons to whom such Pipes or Works belong as to all other Persons.

Situation of Gas and Water Pipes to be altered at the Expense of the Magistrates and Council.

41. If the Person to whom any such Pipes or Works belong do not proceed forthwith after the Receipt of such Notice to cause the same to be raised,
- 40 lowered, or altered in such Manner as the Magistrates and Council require, the Magistrates and Council may themselves cause such Pipes or Works to be raised, lowered, or altered as they think fit; provided that such Works be not permanently injured thereby, or the Water or Gas prevented from flowing as freely and conveniently as before.

If Gas or Water Company neglect to make the Alterations, the Magistrates and Council may cause the same to be done.

- 45 42. It shall not be lawful to form, lay out, or build any Street or Court unless the same shall be of a clear Width of Fifteen Feet, measuring from the Buildings or intended Buildings therein.

Width of new Streets or Courts.

43. It shall not be lawful to build any House in any Street or Court which shall be of greater Height than One and One Half Times the Width of such
- 50 Street or Court; and in no Case shall any such House be of greater Height than Sixty Feet, which Height shall be taken from the Level of the Street Floor in front to the Eave of the Roof.

Height of Houses in Streets or Courts.

Penalty for
forming
Streets and
Courts con-
trary to Act.

44. Every Person who shall, from and after the passing of the Act confirming this Provisional Order, form or lay out, or permit or suffer to be formed or laid out, any new Street or Court, or any Part thereof respectively, within the Burgh, or who shall build, or add to the Height of any House or Premises therein, or permit or suffer the same to be done, contrary to the Provisions hereof, unless 5 the same shall have been formally sanctioned by the Magistrates and Council on a Consideration of the special Circumstances of the Case, which Sanction they are hereby empowered to give, shall forfeit and pay a Sum not exceeding Twenty Pounds, and a further Sum not exceeding Five Pounds per Day for every Day after the first during which he shall permit or suffer such new Street 10 or Court, or Part thereof, or such House, or Premises, to remain so formed, laid out, built, or added to as last aforesaid: Provided always, that the Provisions hereof relating to the Width and Construction of Streets or Courts shall not extend or apply to any existing Street or Court which shall be proved to the Satisfaction of the Magistrates and Council to be agreed to have been formed 15 previous to the passing of the Act confirming this Provisional Order.

Exemption of
Roads under
Trustees.

45. The Provisions hereof in regard to paving and maintaining Streets, excepting Foot Pavements as above provided, shall not apply to any Roads or Streets which are or may come under the Management of Turnpike or other Road Trustees; and nothing herein contained shall in any respect repeal, alter, 20 or affect the Powers or Obligations of such Trustees, or the Provisions of any Act of Parliament under which they act.

VI. *Public Sewers.*

Sewers, &c.
vested in
Magistrates
and Council.

46. All Sewers and Drains within the Burgh, whether existing at the Time 25 when the Act confirming this Provisional Order is passed, or made at any Time thereafter, (except Sewers and Drains within the private Property of any Person made and used as of private Right by any Person or Persons for his or their own Benefit, or for the Benefit of Proprietors or Shareholders, and except Sewers and Drains made and used for the Purpose of draining, preserving, or 30 improving Land under any Local or Private Act of Parliament,) shall vest in and belong to and be entirely under the Management and Control of the Magistrates and Council.

Power to
purchase, &c.
certain
Sewers.

47. The Magistrates and Council may, if they shall think fit, purchase the Rights, Privileges, Powers, and Authorities vested in any Person for making 35 Sewers not hereby vested in the Magistrates and Council, or contract for the Use of any such Sewers within the Burgh, or purchase any such Sewers with or without the Buildings, Works, Materials, and Things belonging or appertaining thereto; and any Person to whom any such Rights, Privileges, Powers, Authorities, Sewers, Buildings, Works, Materials, or Things belong may sell 40 and dispose of the same to or otherwise contract with the Magistrates and Council; and in case of any such Sale the Purchase Money shall be settled and applied to the same Uses and Purposes to which the Property purchased may have been subject at the Time of such Sale, and the Property purchased shall vest in and belong to the Magistrates and Council purchasing the same, 45 any Law to the contrary notwithstanding: Provided always, that, notwithstanding any such Purchase, any Person who previously thereto may have acquired perpetual Right to use any Sewer so purchased shall be entitled to use the same, or any other Sewer substituted in lieu thereof, in as full and ample a Manner as he would or might have done if such Purchase had not 50 been made.

48. Nothing

48. Nothing herein contained shall be construed to authorize the Magistrates and Council, contrary to or inconsistently with any private Right, to use, injure, or interfere with any Sewers or other Works already made or used for the Purpose of draining, preserving, or improving Land under any Local or
- 5 Private Act of Parliament, or for the Purpose of irrigating Lands, or to use, injure, or interfere with any Watercourse, Stream, River, Dock, Basin, Wharf, Quay, or Towing-path in which the Owner or Occupier of any Lands, Mills, Mines, or Machinery, or the Proprietors of any Canal or Navigation, shall have Right and Interest, without Consent in Writing first had and obtained from the
- 10 Person legally entitled to grant the same; and nothing herein contained shall prejudice or affect the Rights, Privileges, Powers, or Authorities given or reserved to any Person under any Local or Private Act of Parliament for the Drainage, Preservation, or Improvement of Land, or for or in respect of any Mills, Mines, Machinery, Canal, or Navigation as last aforesaid.
- 15 49. The Magistrates and Council may from Time to Time divide the whole Burgh, if and as Occasion shall require, into separate Drainage Districts, having regard in such Division to the Nature of the Ground, to the Main Lines of Sewers by which such separate Drainage Districts are or shall be drained, and to the equal Benefit as far as may be of all the Lands or Premises to be
- 20 comprised in any such Drainage District, and shall cause the Burgh Engineer to define and describe the several Drainage Districts on a Plan of the Burgh to be made as after provided for.
50. The Magistrates and Council shall from Time to Time, subject to the Restrictions herein contained as to the Notice to be given and the Plans and
- 25 Estimates to be prepared, cause to be made, under Streets or Courts, or elsewhere, such Main and other Sewers as shall be necessary for the effectual draining of any Portion of the Burgh, and shall also, if necessary for such Drainage, deepen, divert, or cover over any Burn or Ditch made use of as a Common Sewer, or any Burn or Ditch into which Sewage flows, or any Portion
- 30 thereof, or may cause Pipes to be laid along the Course of such Burn or Ditch, or any Portion thereof, and shall also cause to be made all such Reservoirs, Sluices, Engines, and other Works as shall be necessary for cleansing such Sewers, and, if needful, they may carry such Sewers through and across all underground Cellars and Vaults under any Streets or Courts, doing as little
- 35 Damage as may be, and making full Compensation for any Damage done; and if, for completing any of the aforesaid Works, it be found necessary to carry them into or through any enclosed or other Lands, the Magistrates and Council may carry the same into or through such Lands accordingly, making full Compensation to the Owners and Occupiers thereof, and they may cause the Refuse
- 40 from such Sewers to be conveyed by a proper Channel to the most convenient Site for its Collection, and Sale for agricultural or other Purposes, as may be deemed most expedient, but so that the same shall in no Case become a Nuisance: Provided always, that if in making any such Main and other Sewers, or in repairing, constructing, or enlarging the same or existing Drains or Sewers,
- 45 the Contents at present carried into any existing Outlet shall be diverted therefrom to the Prejudice of any actual existing legal Right, the Magistrates and Council shall be bound to make Compensation therefor: which Compensation shall be settled in the same Manner as Compensation for Land to be taken under the Provisions of the "Lands Clauses Consolidation (Scotland) Act, 1845," is
- 50 directed to be settled.

Private Sewers or Watercourses, &c. not to be used without Consent.

Drainage Districts to be formed.

Power to Magistrates and Council to construct Sewers where none exist, making Compensation to Owners of Property.

51. The Magistrates and Council may from Time to Time as they see fit, repair, enlarge, alter, arch, or cover over, and otherwise improve all or any of the

Magistrates and Council may alter Sewers

Sewers from
Time to Time.

Sewers vested in them; and if any of such Sewers at any Time appear to them to have become useless, the Magistrates and Council, if they think fit to do so, may demolish and discontinue such Sewer, provided that it be so done as not to create a Nuisance.

Magistrates
and Council
not to destroy
existing
Sewers, &c.
without pro-
viding others.
Penalty for
Neglect.

52. If any Person, by means of any Enlargement, Alteration, or Discontinuance 5
of any Sewer, or other Proceeding of the Magistrates and Council, be deprived
of the Use of any Sewer or Drain which such Person was theretofore lawfully
entitled to use, the Magistrates and Council shall provide some other Sewer or
Drain equally effectual for such Purpose; and if the Magistrates and Council
refuse, or do not within Seven Days next after Notice in Writing served upon 10
them begin, and thereupon diligently proceed to restore to its former effective
State such Drain or Sewer the Use whereof has been affected by the Acts of the
Magistrates and Council, or to provide such other Sewer or Drain as aforesaid,
they shall forfeit to the Person aggrieved any Sum not exceeding Forty Shillings
for every Day after the Expiration of such Seven Days during which he is de- 15
prived of the Use of the Drain or Sewer to which he was so entitled, and is not
provided with such other Drain or Sewer as aforesaid.

Magistrates
and Council
to cause Esti-
mates to be
prepared be-
fore Execution
of Works.

53. Before entering into any Contract for executing any such Work as afore-
said, the Magistrates and Council shall procure from the Burgh Engineer an
Estimate of the probable Expense of constructing the same in a substantial 20
Manner, and of the yearly Expense of maintaining the same in repair, and the
Burgh Engineer shall accompany such Estimate with a Report as to the most
advantageous Mode of constructing such Work, whether under a Contract for
constructing the same merely, or a Contract for constructing the same and
maintaining it in repair during a given Term of Years. 25

Penalty for
making un-
authorized
Drains.

54. Every Person, not being employed or authorized for that Purpose by the
Magistrates and Council, who shall make any Drain from any Lands or Premises
into any of the Sewers vested in the Magistrates and Council, shall be liable to a
Penalty not exceeding Five Pounds; and the Magistrates and Council may
cause such Drain to be re-made as they think fit, and the Expense incurred 30
thereby shall be paid by the Owner of the Lands or Premises, and that over and
above a reasonable Sum of Money for the Use of the Sewers, which the Magis-
trates and Council are hereby authorized and required to exact for all Lands or
Premises which were not assessed for the Expense of making such Sewers, or
which shall have been built, enlarged, or altered after the Assessment for making 35
the same was imposed or levied, and the Magistrates and Council shall fix and
determine the Sum to be paid as they shall consider just.

Vaults and
Cellars under
Streets not to
be made with-
out the Con-
sent of the
Magistrates
and Council.

55. No Building shall be erected over any Sewer belonging to the Magistrates
and Council, and no Vault, Arch, or Cellar shall be made under the Carriageway 40
of any Street, without the Consent of the Magistrates and Council first obtained
in Writing; and all such Vaults, Arches, and Cellars shall be substantially made,
and so as not to interfere or communicate with any Sewers belonging to the
Magistrates and Council; and if any Building be erected, or any Vault, Arch,
or Cellar be made therein, contrary to the Provisions herein contained, the
Magistrates and Council may demolish or fill up the same, and the Expenses 45
incurred thereby shall be paid by the Persons erecting such Building, or making
such Vault, Arch, or Cellar.

All Sewers,
&c. to be
covered with
Traps.

56. All Sewers and Drains within the Burgh, whether public or private, shall
be provided by the Magistrates and Council, or other Persons to whom they
severally belong, with proper Traps or other Coverings or Means of Ventilation, 50
so as to prevent Stench.

57. The Owners or Occupiers of Distilleries, Manufactories, and other Works shall be compelled, where possible, to dig, make, and construct Pools or Reservoirs within their own Ground, or as near their Works as possible, for receiving and depositing the Refuse of such Works, so far as offensive or dangerous to the Health of those living in the Vicinity thereof, or to use the best practicable Means for rendering the same inoffensive or innoxious before discharging it into any River, Stream, Ditch, or Sewer.

Distillers to construct Reservoirs to deposit Refuse.

58. Any Person, being the Owner or Occupier of any Lands or Premises beyond the Burgh, and in respect of which he would not be liable to the Payment of the Rates authorized to be levied under the Provisions hereof, may, with the Consent of the Magistrates and Council first obtained in Writing, upon Payment to them of a reasonable Sum of Money, to be agreed upon between them, at his own Expense, and under the Superintendence of the Burgh Engineer, cause to branch into and to communicate with any of the Sewers belonging to the Magistrates and Council, any Sewer or Drain in respect of the said Lands or Premises which may be lawfully made therefrom, of such Size and in such Manner and Form of Communication as the Magistrates and Council approve of: Provided always, that nothing herein contained shall affect any Right theretofore acquired by such Owner or Occupier to use any of the Sewers or Drains belonging to the Magistrates and Council.

Sewers may be used by Owners and Occupiers of Land or Premises beyond Limit of Burghs.

59. The Magistrates and Council shall have Power and are hereby authorized to arrange with the Owner or Occupier of any Manufactory, Gaswork, Brewery, or other Premises having Furnaces and Chimney Shafts so situated as to be available for the Ventilation of the adjacent Sewers and Drains; and the said Magistrates and Council are hereby authorized and empowered to acquire Lands or Premises, and to construct all Shafts, Ventilating Shafts, Furnaces, and other Works, which may be found necessary from Time to Time for the efficient Ventilation of the existing Sewers and Drains, or of such Sewers or Drains as are hereby authorized to be constructed; and in the Execution of this Provision the Magistrates and Council shall have and exercise every Power which is hereby conferred upon them with reference to the Construction of Sewers and Drains; and all Costs and Expenses which may be incurred by the Magistrates and Council in carrying this Provision into effect shall form a Charge against the "General Sewer Rate," or against any "Special Sewer Rate," which in their Opinion may be properly liable therefor; provided always, that the Magistrates and Council may, if they shall think fit, resolve that the same shall be charged, and they are hereby empowered to charge the same against the Police Assessment.

Ventilation of Sewers.

60. It shall be lawful for the Magistrates and Council to borrow, for the Purpose of making, enlarging, reconstructing, ventilating, and maintaining Sewers which have been formed under the Provisions of "The Edinburgh Police Act, 1848," "The Edinburgh Police Amendment Act, 1854," and "The Municipality Extension Act, 1856," or the Formation of which, otherwise, has been sanctioned by the Magistrates and Council for the Benefit of any particular District, or which may be formed under the Provisions hereof, and on the Security of the said Special Sewer Rates and General Sewer Rates, such Sums of Money, and at such Times, as the Magistrates and Council shall deem necessary for that Purpose, and to assign the said Special Sewer Rates and General Sewer Rates in security of the Money to be so borrowed; and the Provisions hereof with respect to the borrowing of Money and the granting of Bonds therefor, and the Transference and recording of such Bonds shall be applicable to the borrowing of Money for the Purpose of making, enlarging,

Power to borrow Money for the Construction of Sewers.

reconstructing, ventilating, and maintaining Sewers; and the Bonds to be granted for the Money so to be borrowed shall, mutatis mutandis, be in the Form as near as may be set forth herein for Bonds to be granted for Money borrowed under the general Powers hereof, and shall constitute a Lien over the Special Sewer Rates and General Sewer Rates thereby assigned, and shall entitle the Creditors therein to recover the Sums thereby due from the Magistrates and Council and their Officers out of the first and readiest of the Special and General Sewer Rates.

Application of
borrowed
Money for
constructing
Sewers.

61. The Money so borrowed shall be applied wholly in defraying the Expense of making, enlarging, reconstructing, ventilating, and maintaining Sewers as aforesaid, and to no other Purpose whatsoever; and the Special and General Sewer Rates shall not be liable for nor be assigned in security of the Payment of any Sums borrowed by the Magistrates and Council for any other Purpose than the making, Enlargement, Reconstruction, Ventilation, or Maintenance of Sewers.

Persons ag-
grieved by
making, &c.
Sewers may
appeal to the
Sheriff.

62. Provided always, That it shall not be lawful to the Magistrates and Council to authorize the Construction of any Sewer the Sewage from which will be discharged into any River or Stream from which Water is taken for domestic Purposes, so as to injure or affect such Supply; and as regards the making, altering, or maintaining Sewers, and the discharging thereof into any River or Stream, it shall be lawful for any Person whose Property may be taken or affected, or who may think himself thereby aggrieved, to appeal thereon to the Sheriff in manner after provided.

7.—*Drainage of Houses.*

Magistrates
and Council
empowered to
construct
Drains from
Houses,
charging
Owners, &c.
with the Ex-
pense.

63. If any House or Building within the Burgh be at any Time not drained by a sufficient Drain or Pipe communicating with some Sewer to the Satisfaction of the Magistrates and Council, and if there shall be such Means of Draining within One hundred Yards of any Part of such House or Building, the Magistrates and Council shall construct or lay from such House or Building a covered Branch Drain or Pipe of such Materials, of such Size, at such Level, and with such Fall as they think necessary for the Drainage of such House or Building, its Areas, Waterclosets, and Offices; and the Expense thereof shall be recoverable from the Owner of such House or Building over and above any Sum that may be charged for the Use of the Sewers as above provided for.

No House to
be hereafter
built without
Drains being
constructed.

64. No House or Building within the Burgh shall be built upon a lower Level than will allow of the Drainage of the Wash and Refuse of such House or Building into some Sewer belonging to the Magistrates and Council, either then existing or marked out by them; and if there be such Means of Drainage existing within One hundred Yards of such intended House or Building, the Magistrates and Council shall cause a Branch Drain leading thereunto from the intended Site of such House to be made, of such Materials, of such Size, at such Level, and with such Fall as they think fit; or if there be no such Means of Drainage within One hundred Yards of any Part of the said intended Site of such House or Building, then such Drain shall be made so as to lead into such covered Cesspool or other Place as the Magistrates and Council direct, not being under any Dwelling House, and constructed and kept in complete Repair to the Satisfaction of the Magistrates and Council, so as effectually to prevent any Leakage or Effluvia therefrom until such Sewer as aforesaid is made by the Magistrates and Council, when they shall make a Drain to communicate with such new made Sewer, and shall demolish and fill up any such Cesspool.

65. Whenever

65. Whenever any House is rebuilt within the Burgh, the Level of the Cellar or other lowest Floor of such House shall be raised sufficiently to allow of the Construction of such Drain as is herein-before provided in the Case of Houses to be built after the passing of the Act confirming this Provisional Order; and whenever any House is taken down to or below the Ceiling of the Floor commonly called the Ground or Street Floor, for the Purpose of being built up again, such Building shall be deemed a rebuilding within the Meaning hereof.

Where Houses are built, the Level shall be sufficient to allow a Drain to be constructed.

10 66. Before beginning to build any new House, or to rebuild any existing House within the Burgh, the Person intending to build or rebuild such House shall give to the Magistrates and Council Notice thereof in Writing, and shall accompany such Notice with a Plan showing the Level at which the Foundation of such House is proposed to be laid by Reference to some Level ascertained under the Direction of the Magistrates and Council.

Notice of Buildings and Rebuildings to be given to the Magistrates and Council.

15 67. Within Fourteen Days after receiving such Notice the Magistrates and Council may signify their Disapproval of the Level at which it is proposed to lay the Foundation of any such House, and in case of such Disapproval may, within the said Fourteen Days, fix the Level at which the same is to be laid, but subject to Appeal to the Sheriff if such Appeal shall be entered within Two Weeks from the Date of the Intimation of such Disapproval; and the Decision of the Sheriff, if such Appeal be taken, or the Deliverance of the Magistrates and Council, if not appealed to the Sheriff, shall be final.

Magistrates and Council may signify Disapproval within Fourteen Days.

20 68. In default of sending such Notice and Plan, or if such Building be begun or made at any Level different from that fixed by the Magistrates and Council, within the said Fourteen Days, or determined on Appeal, as after provided, or in any other respect is contrary to the Provisions hereof, the Magistrates and Council may, if necessary, cause such Building to be altered or demolished, as the Case requires, and the Expense incurred by the Magistrates and Council in respect thereof shall be repaid to them by the Persons failing to comply with the Provision aforesaid.

Magistrates and Council may cause Houses built without Notice, or contrary to Provisions of this Act, to altered.

35 69. If the Magistrates and Council fail to signify in Writing their Approval or Disapproval of the Level shown on such Plan as aforesaid within Fourteen Days after receiving such Notice and Plan as aforesaid, the Person giving such Notice may, notwithstanding anything herein contained, proceed to build or rebuild the House therein referred to according to the Level shewn on such Plan, provided that no such building or rebuilding be otherwise in accordance with the Provisions hereof.

If Magistrates and Council fail to signify their Approval, &c. within Fourteen Days, Parties may proceed without.

40 70. All Branch Drains, as well within as without the Premises to which they belong, and all Cesspools or Reservoirs within the Burgh, shall be under the Survey and Control of the Magistrates and Council, and shall be altered, repaired, cleansed, and kept in proper Order at the Cost and Charges of the Owners of the Premises to which the same belong, or for the Use of which they are constructed or continued; and if the Owner of any Premises to which any such Drain or Cesspool or Reservoir belongs, neglect, during Seven Days after Notice in Writing for that Purpose, to alter, repair, cleanse, and to put the same into good Order in the Manner required by the Magistrates and Council, the Magistrates and Council may, at the Expense of such Owner, cause such Drain or Cesspool or Reservoir to be altered, repaired, cleansed, covered, and put in good Order. And it is hereby provided, that the Occupiers of all Premises within the Burgh shall be bound at least once every Two Years to cause all Cesspools or Reservoirs belonging to or used by them, or connected with such Premises, to be cleansed; and the Occupier defraying such Expense shall

Drains and Cesspools to be kept in good Order by Owners.

If Owners neglect, Magistrates and Council may cause the same to be done and charge the Owners with the Expense.

shall be entitled to retain the same from the next Term's Rent payable to the Owner; as also provided, that when any Cesspool or Reservoir is used by the Occupiers of Two or more Houses belonging to different Owners, the Cost of such cleansing shall be defrayed by the Occupiers of such Houses in the Proportions of the Rental thereof as entered in the Valuation Roll; and wherever 5 any such Cesspool or Reservoir shall not be so cleansed, the Owner of each House connected therewith or using the same shall be liable to a Penalty of Forty Shillings, and to a further Penalty of Twenty Shillings for every Day that such Cesspool or Reservoir remains uncleansed after Notice requiring him to do so shall have been given by the Burgh Engineer, Inspector of Cleansing, 10 or other Officer appointed by the Magistrates and Council.

As to the
Inspection of
Drains and
Cesspools.

71. The Burgh Engineer, Inspector of Cleaning, or other Officer appointed by the Magistrates Council may inspect any Drain or Cesspool or Reservoir within the Burgh, and for that Purpose, at all reasonable Times in the Daytime, after Twenty-four Hours' Notice in Writing to the Occupier of the Premises 15 to which such Drain or Cesspool or Reservoir is attached, may enter upon any Premises, with such Assistants or Workmen as are necessary, and cause the Ground to be opened where he thinks fit, doing as little Damage as may be; and if such Drain or Cesspool or Reservoir be found to be clean and in proper Order and Condition, he shall cause the Ground to be closed and made good as 20 soon as may be; and the Expense of opening, closing, and making good such Drain or Cesspool or Reservoir shall in that Case be defrayed by the Magistrates and Council.

Penalty on
Persons mak-
ing or altering
Drains, &c.
contrary to
the Orders of
the Magistrates
and Council.

72. If such Drain or Cesspool or Reservoir be on Inspection found to have been constructed, after the passing of the Act confirming this Provisional 25 Order, contrary to the Directions and Regulations of the Magistrates and Council, or contrary to the Provisions hereof, or if any Person without the Consent of the Magistrates and Council construct, rebuild, or unstop any Drain or Cesspool or Reservoir which has been ordered by them to be demolished or stopped up or not to be made, every Person so doing shall be liable to a Penalty not exceeding 30 Five Pounds; and the Magistrates and Council may cause such Amendment or Alteration to be made in any such Drain or Cesspool or Reservoir as they think fit.

Parties
aggrieved may
appeal to the
Sheriff.

73. As regards House or Branch Drains, and the building or rebuilding any House, it shall be lawful for any Person whose Property may be thereby taken 35 or affected, and thinking himself thereby aggrieved, to appeal thereon to the Sheriff in manner after provided.

VIII.—*Soil Pipes and Waterclosets.*

Water and
Waterclosets.

74. Within One Month after Notice given by the Magistrates and Council in Writing for that Purpose, the Owner of every House or Part of a House occupied 40 by a separate Family into which Water has not been already introduced shall introduce Water into every such House or Part of a House within the Burgh, by means of a Pipe not less than Half an Inch Bore, fitted with a Crane opening upon the Sink after mentioned; and shall fit up, in some Window, Recess, or other well-lighted or ventilated Place, a Sink, with a sufficient Soil Pipe, 45 to carry off the whole foul Water into the nearest Drain or Sewer; and after like Notice every Owner shall also provide for such House or Part of a House occupied by a separate Family, wherever practicable, and in a Position to be approved of by the Burgh Engineer, a sufficient Watercloset; and the said Sinks, Soil Pipes, and Waterclosets shall be properly applied, trapped, and 50 ventilated, and these and the Water Pipes fitted up in a complete Manner, and

so as to prevent any Leakage or Effluvium therefrom ; and all Sinks, Soil Pipes, Waterclosets, and Water Pipes, already existing or which may be fitted up under the Provisions hereof, shall be kept in complete Repair, to the Satisfaction of the Magistrates and Council, for the Use of the Occupants of such House or

- 5 Part of a House: Provided always, that if in the Opinion of the Magistrates and Council it is not advisable to introduce Waterclosets into each House or Part of a House, they, after a like Notice, may require the Owners of a Tenement to construct on each Flat, or in some convenient Place or Places adjacent to such Tenement, but in every Case in a Position approved of by the Burgh Engineer, 10 a sufficient Number of Waterclosets for the separate Use of each Sex of the Inmates and Occupiers of the said Tenements: Provided always, that this Enactment shall not be enforced by the Magistrates and Council where, from Water not having been laid under sufficient Pressure, or from Drains being still unmade, or from any other Cause, such Works shall be considered by them to be 15 impracticable or inexpedient.

75. If at any Time it shall appear to the Magistrates and Council, upon the Report of the Burgh Engineer, that any House is used or intended to be used as a School or Factory, or Building in which Persons of both or either of the Sexes, and above Ten in Number, are employed or intended to be employed at 20 One Time in any Manufacture, Trade, or Business, the Magistrates and Council may, if they shall think fit, by Notice in Writing to the Owner or Occupier of such House, require them or either of them, within a Time to be specified in such Notice, to construct, in a Position approved of by the Burgh Engineer, a sufficient Number of Waterclosets or Privies for the separate Use of each Sex ; 25 and any Person refusing or neglecting to comply with any such Notice shall be liable for each Default to a Penalty not exceeding Twenty Pounds, and a further Penalty not exceeding Forty Shillings for every Day during which the Default is continued.

Certain Waterclosets to be constructed in Factories, &c.

76. Wherever in any House at present existing Waterclosets are constructed 30 so as to ventilate into Common Stairs, the Owners of such House shall, whenever the Medical Officer of Health shall certify the same to be offensive or injurious to Health, be bound to adopt all practicable Means to ventilate such Waterclosets by Shaft or other Means communicating directly and only with the open Air, or in such other Manner as the Magistrates and Council may direct; and 35 in all Houses to be hereafter erected within the Burgh for the Use of Two or more Families, the Waterclosets shall be constructed so as to ventilate by Shaft or otherwise into the open Air; and all Persons failing so to ventilate such Waterclosets shall be liable in a Penalty of Forty Shillings for every Day during which the Default is continued.

Ventilation of Waterclosets.

77. It shall be lawful for the Owners of any One or more Floors or Stories 40 of any House or other Building within the Burgh to have a Supply Pipe from any Water Pipe in the Street brought up the Common Staircase, or along the Back or Side Wall of the Tenement on the Outside, and either passing underground through the sunken Story or lowest Flat, or where practicable, through 45 any common Entry; provided always, that Authority shall be first obtained from the Magistrates, which may be granted summarily, on hearing the Parties concerned, without written Pleading, to lay and put up such Pipe; and the Expense of laying and putting up, and of keeping the same in repair, and the Damage thereby occasioned to the Street and otherwise, shall be defrayed by 50 the Person using the same; and no Person shall have Power to join the Supply Pipe to any Main Pipe without the Sanction of the Magistrates, or any One of them so obtained, and of any Water Company who may supply such Water:

Owners of Flats of Houses to have a Supply Pipe from Water Pipe.

Provided always, that before such Sanction is granted by the Magistrates or any One of them, Notice of the Application therefor shall be given to the Proprietors of Property proposed to be interfered with in any way, and an Opportunity afforded them of being heard for their Interest.

Soil Pipes
may be carried
through the
different
Houses.

78. Where there are Two or more Houses in any Tenement, the Owner and Occupier of each House shall permit Soil Pipes, if necessary, to be carried through the same; and the Owner and Occupier of the lowest Storey shall permit such Soil Pipes, if necessary, to be carried through and under the same; and all such Owners and Occupiers shall at all reasonable Times afford Access to all such Houses for the Construction of the Works, and for making all Repairs necessary thereon, without any Claim for Compensation: Provided always, that the Works shall be so executed as to occasion the least Inconvenience to any such Owner and Occupier, and that any Injury done to such Houses in the Execution of the Works shall be forthwith repaired, and that the Authority of the Magistrates shall first be obtained, in the Manner herein-before provided with respect to Supply Pipes from Water Pipes.

Owners of
Flats of
Houses may
erect Waste
Pipes to com-
municate with
Drains.

79. In all Streets, Courts, and other Places within the Burgh where Common Sewers are or may be constructed, it shall be lawful for any Owner of One or more Floors or Stories of any House or other Building divided into separate Floors or Stories (on obtaining Authority for the Purpose from the Magistrates summarily, after visiting the Premises, or on the Report and Recommendation of the Burgh Engineer, or of such other Person skilled in Building as any of the Magistrates may appoint, and on hearing the Parties interested), to erect a Waste or Foul Water Pipe or Soil Pipe in or upon the Common Staircase, or along the Back or Side Wall of the Tenement on the Outside, to communicate with any Drain underground leading into the Common Sewer, where there is such Drain, and with Power to make such Drain if none such already exist: Provided always, that the Sanction of the Magistrates and Council shall be obtained before connecting such Drain with any Common Sewer; and the Expense and Damage occasioned by erecting and constructing such Pipe, Drain, and Communication, with the Expense of restoring the Street, Court, or other Place so far as interfered with, and the Expense of keeping such Drain and Communication clean and in good Repair, with such reasonable Allowance for the Use of the Common Sewer as the Magistrates and Council may fix, shall be defrayed by the Owners of the Floors or Flats making use thereof, in proportion to their respective Rents or annual Value, as the same may be ascertained from the Police Assessment Books or otherwise.

GENERAL POLICE REGULATIONS.

I.—Precautions during Repairs and Old and Ruinous Tenements.

Bars to be
erected across
Streets while
Repairs or
Alterations
are making,
and Lights
placed at
them.

80. The Magistrates and Council shall, during the Construction or Repair of any Buildings, Sewers, or Drains, take proper Precaution for guarding against Accident, by shoring-up and protecting the adjoining Houses, and may stop any Street or Court, and prevent the same being used as a Common Passage or Thoroughfare, while such Works are carried on, as to them shall seem proper; and the Magistrates and Council shall cause any Sewer or Drain or other Works, during the Construction or Repair thereof, to be lighted and guarded during the Night, so as to prevent Accidents; and every Person who uses any Street or Court while so stopped as a Common Passage or Thoroughfare, or extinguishes any Light, without the Authority or Consent of the Magistrates and Council, shall for every such Offence be liable to any Penalty not exceeding Five Pounds.

81. Every

81. Every Person intending to build or take down or repair any Building within the Burgh, or to cause the same to be so done, or to execute any Operation by or in consequence of which any Street, Court, or Footway may be obstructed or rendered inconvenient, shall obtain Authority from the Magistrates and Council to put up, and such Authority being obtained shall put up, subject to such Conditions as may be prescribed by the Magistrates and Council, Hoards or Fences to the Satisfaction of the Burgh Engineer, in order to separate the Building where such Works are being carried on from such Street or Court, with a convenient Platform and Handrail (should such Handrail be considered necessary), if there be Room enough, to serve as a Footway for Passengers outside of such Hoard or Fence, and shall continue such Hoard or Fence, with such Platform and Handrail as aforesaid, standing and in good Condition to the Satisfaction of the Magistrates and Council during such Time as the Burgh Engineer shall fix and the public Safety or Convenience requires, and shall in all Cases in which it is necessary, in order to prevent Accidents, cause the same to be sufficiently lighted during the Night; and every such Person who puts up such Hoard or Fence without previously obtaining the Authority of the Magistrates and Council so to do, or who fails to put up such Fence or Hoard, or Platform with such Handrail as aforesaid, or fails to continue the same respectively standing and in good Condition as aforesaid during the Time aforesaid, or who does not, while the said Hoard or Fence is standing, keep the same sufficiently lighted during the Night, or who does not remove the same when directed by the Magistrates and Council, within a Time specified for that Purpose, shall for every such Offence be liable to a Penalty not exceeding Five Pounds, and a further Penalty not exceeding Forty Shillings for every Day while such Default is continued.

Hoards to be set up during Repairs.

82. When any Building Materials, Rubbish, or other Things are laid, or any Hole made, in any Street or Court, whether the same be done by Order of the Magistrates and Council or not, the Person causing such Materials or other Things to be so laid, or such Hole to be made, shall, at his own Expense, cause a sufficient Light to be fixed in a proper Place upon or near the same, and continue such Light every Night from Sunsetting to Sunrising while such Materials or Hole remain; and such Person shall, at his own Expense, cause such Materials or other Things and such Hole to be sufficiently fenced and enclosed until such Materials or other Things are removed, or the Hole filled up or otherwise made secure; and every such Person who fails so to light, fence, or enclose such Materials or other Things, or such Hole, shall for every such Offence be liable to a Penalty not exceeding Five Pounds, and a further Penalty not exceeding Forty Shillings for every Day while such Default is continued.

Penalty for not lighting Deposits of Building Materials or Excavations.

83. In no Case shall any such Building Materials or other Things, or such Hole, be allowed to remain longer than may be fixed by the Burgh Engineer, under a Penalty not exceeding Five Pounds, to be paid for every such Offence by the Person who causes such Materials or other Things to be laid, or such Hole to be made, and a further Penalty not exceeding Forty Shillings for every Day during which such Offence is continued after the Conviction for such Offence.

Penalty for continuing Deposits of Building Materials or Excavations an unreasonable Time.

84. If any Building or Hole or any other Place near any Street or Court be, for Want of sufficient Repair, Protection, or Enclosure, dangerous to the Passengers along such Street or Court, the Magistrates and Council shall cause the same to be repaired, protected, or enclosed so as to prevent Danger therefrom.

Dangerous Places to be repaired or enclosed.

Ruinous or dangerous Buildings to be taken down or secured by Owners, &c.

85. If any Building or Wall or other Erection, of whatever Form or Material, or anything affixed thereon, within the Burgh, be deemed by the Burgh Engineer to be in a ruinous State, and dangerous to Passengers or to the Occupiers thereof, or of the neighbouring Buildings, the Burgh Engineer shall immediately cause such Occupiers endangered thereby to remove from the Occupancy of such 5 Buildings or other Erection until the same are put into a safe Condition, and shall, if he judge the same to be necessary, cause a proper Hoard or Fence, or Props, to be put up for the Protection of Passengers, and shall also cause, if he shall judge necessary, the neighbouring Buildings to be properly shored up, and shall cause Notice in Writing to be given to the Owner of such Building, Wall, 10 or other Erection or Thing, if he be known and resident within the Burgh, and shall also cause such Notice to be put on the Door of such Building or on such Wall, or on a conspicuous Part thereof, or otherwise to be given to the Occupier thereof, if any, requiring such Owner forthwith to take down, secure, or repair such Building, Wall, or other Erection or Thing, or as the Case shall require: 15 and if such Owner do not begin to repair, take down, or secure such Building, Wall, or other Erection or Thing within the Space of Three Days after such Notice has been so given or put up as aforesaid, and complete such Repairs, or taking down, or securing, as speedily as the Nature of the Case will admit, the Dean of Guild of the Burgh, or the Sheriff, according as such Building, Wall, or 20 other Erection or Thing shall be situated in their then respective Jurisdictions, shall, on the Complaint of the Burgh Engineer, or of the Procurator-Fiscal of their respective Courts, and after Inquiry, order the Owner of such Building, Wall, or other Erection or Thing, to take down, rebuild, repair, or otherwise secure, to the Satisfaction of the Burgh Engineer, the same, or such Part thereof 25 as appears to them to be in a dangerous State, within a Time to be fixed by the said Dean of Guild, or Sheriff; and in case the same be not taken down, repaired, rebuilt, or otherwise secured within the Time so limited, the Magistrates and Council shall with all convenient Speed cause all or so much of such Building, Wall, or other Erection or Thing as shall be in a ruinous Condition and dan- 30 gerous as aforesaid to be taken down, repaired, rebuilt, or otherwise secured in such Manner as shall be requisite; and all the Expenses of enforcing such Removal and of putting up every such Fence, or of shoring up such Buildings, or of taking down, repairing, rebuilding; or securing such Building, Wall, or other Erection or Thing, shall be paid by the Owner thereof. 35

If Owner, &c. neglect to repair, Magistrates and Council may cause the same to be done, charging Owner, &c. with the Expenses.

The Expenses to be levied on the Owner.

86. If the Owner of such Building or Wall, or other Erection or Thing, can be found within the Burgh, and if, on Demand of the Expenses aforesaid, he neglect or refuse to pay the same, the Dean of Guild, or Sheriff, shall, on a Certificate of such Demand and Neglect or Refusal, signed by the Clerk, grant Decree against such Owner for Payment thereof, on which Decree all legal 40 Diligence may proceed, or the Magistrates and Council may proceed against such Owner for the Recovery of the said Expenses in Terms of the General Provisions hereof for Recovery of Expenses, or otherwise as accords of Law.

If Owner cannot be found, Magistrates and Council may take the House or Ground, making Compensation.

87. If such Owner cannot be found within the Burgh, or if such Expenses are not otherwise fully recovered, the Magistrates and Council, after giving 45 Twenty-eight Days' Notice of their Intention to do so, by posting a printed or written Notice in a conspicuous Place on such Building, Wall, or other Erection or Thing, or on the Land whereon such Building or Wall stood (provided that such Expenses be not paid or tendered to them within the said Twenty-eight Days), may deal with such Building or Land as waste and 50 ruinous, and bring the same to Sale in manner herein-after provided, or in the Option

Option of the Magistrates and Council, they may take such Building or Land, making Compensation to the Owner of such Building or Land in the Manner provided by "The Lands Clauses Consolidation (Scotland) Act, 1845," in the Case of Lands taken otherwise than with the Consent of the Owners and
 5 Occupiers thereof, and the Magistrates and Council shall be entitled to receive out of the Price obtained for such Building or Land, if sold, or to deduct out of such Compensation the Amount of the Expenses aforesaid, and if they shall take such Building or Land and make Compensation therefore as aforesaid, they may thereupon sell or otherwise dispose of the said Building or Land for the
 10 Purposes hereof.

88. If any such House, Building, Wall, or other Erection or Thing as aforesaid, or any Part of the same, be pulled down by virtue of the Powers aforesaid, the Magistrates and Council may sell the Materials thereof, or so much of the same as shall be pulled down, and apply the Proceeds of such Sale in Payment of the
 15 Expenses incurred in respect of such House or Building; and the Magistrates and Council shall restore any Surplus arising from such Sale to the Owner of such House, Building, Wall, or other Erection or Thing on Demand; nevertheless the Magistrates and Council, although they sell such Materials for the Purposes aforesaid, shall have the same Remedies for compelling the Payment of
 20 so much of the said Expenses as may remain due after the Application of the Proceeds of such Sale as are herein-before given to them for compelling the Payment of the whole of the said Expenses.

89. It shall be lawful for the Burgh Engineer to give a written or printed Intimation to all or One or more of the Owners of any ruinous Building, or of
 25 any Area or Space occupied by the Walls or Rubbish of Buildings, or by other Rubbish, or of any Cellar occupied by Rubbish, or otherwise in a filthy State, or of any open Area or Space which ought to be fenced, requiring such Owners within Six Days after such Intimation, to cause the same to be pulled down, cleared out, or fenced and secured to the Satisfaction of the Burgh Engineer, so as to prevent the
 30 same being or becoming the cause of Nuisance or Danger to the Inhabitants, and, in case said Owners shall fail to comply with the Terms of such Intimation within the Time specified, it shall be lawful for the Judge of Police to subject such Owners in a Penalty not exceeding Forty Shillings, and in a farther Penalty not exceeding Ten Shillings for each Week during which they shall fail to
 35 comply with such Intimation; and it shall be lawful for the said Judge, farther, to order such ruinous Building or Area, or Cellar, or open Area or Space, to be pulled down, cleared out, built up, or fenced and secured to the Satisfaction of the Burgh Engineer, and to find the said Owners liable in the Expense of the same, and in all Charges connected therewith, which Charges and Expenses may be sued
 40 for and recovered in manner herein provided: Provided always, that where One or more of such Owners shall, either in Terms of said Intimation, or in consequence of the Order of the said Judge, disburse the Expense of the Work required, he or they shall have recourse upon the other Owners liable, in Proportions according to their respective Interests; and where such ruinous Building or Area, or Cellar,
 45 or open Area or Space, is unclaimed or the Owner thereof cannot be found, it shall be lawful for the Burgh Engineer to pull down, clear out, build up, or fence and secure the same, and to charge the Expense thereof against the Police Assessment; provided always, that any Expense so incurred, and paid out of the Police Assessment, shall be chargeable against and form a Burden upon the
 50 Buildings, Area, Cellar, or open Space in respect of which such Expense shall be incurred and paid, and shall be recoverable out of such Property, or from any Owner who may claim Right thereto, and it shall be competent to the

Magistrates and Council may sell the Materials, restoring to the Owner Overplus arising from the Sale.

Ruinous Buildings to be pulled down, and Areas or Cellars to be cleaned and fenced or secured.

Magistrates and Council, at any Time thereafter, to deal with such Building, Area, Cellar, or open Space as waste and ruinous, and to bring the same to sale in manner herein-after provided with reference to ruinous Buildings.

Ruinous
Buildings
belonging to
Two or more
Owners may
be sold.

90. If any Houses, Buildings, and other Tenements or Areas have become waste and ruinous within the Burgh, and have become Receptacles for Filth and other Nuisances, or unsafe and unfit for Use and Occupation, and which, being held by Two or more joint Owners, cannot be rebuilt or disposed of to Advantage without the Consent of all the Parties interested therein, and the same are allowed to continue in a waste and ruinous or unsafe State in consequence of the Parties being unable or unwilling or delaying to agree as to the Sale or rebuilding thereof, it shall be lawful to the Dean of Guild of the Burgh, or the Sheriff, according as such Houses, Buildings, and other Tenements or Areas shall be situated within their respective Jurisdictions, upon the Application by Petition of the Procurator Fiscal of their respective Courts, or of the Magistrates and Council, or the Burgh Engineer, or of any Owner or Party interested in any such Houses, Buildings, or other Tenements, to call all Parties interested therein before the said Dean of Guild or Sheriff, in the usual Manner and Form followed in their respective Courts, and to order such Tenements or Areas to be valued by not less than Three Men of Skill, upon Oath, who shall distinguish the Portions of Tenement or Area, and the corresponding Proportion of the appraised Value, which belong to the several Parties interested, and thereupon to give each Party the Option to buy and acquire from, or to sell and convey to the others, their respective Portions of or Interests in such Tenements or Areas, agreeably to such Valuation, or at such other Price as shall be agreed on amongst themselves, and that within a reasonable Time to be fixed by the said Dean of Guild or Sheriff, not exceeding Six Weeks.

How Sale to
be carried
through.

91. If any of the said Parties fail to take Advantage of the said Option within the Time so fixed, or shall not be able to agree as to which shall be the Buyer and which the Seller, it shall be lawful to the said Dean of Guild or Sheriff respectively to cause such Tenements or Areas to be exposed to Sale by Public Auction at a Price not being less than the appraised Value, and in case of no Offerers to reduce the upset Price from Time to Time, and to sell the same to the highest Bidder, under such Regulations, and upon such Conditions, and after such public Notice by Advertisement in the Newspapers, or otherwise, as the said Dean of Guild or Sheriff respectively shall appoint, and the Purchaser thereof shall be taken bound within Ten Days after the Sale, or within such Time as may be fixed by the said Dean of Guild or Sheriff respectively, to consign or deposit the whole Amount of the Purchase Money in any One of the Banks established by Act of Parliament or Royal Charter, upon a Receipt or Voucher subject to the Orders of the said Dean of Guild or Sheriff respectively, otherwise the Sale to be void and null, and the Money so deposited shall remain at Interest for the Behoof of all Parties interested therein, under the sole Control and subject to the future Orders of the Dean of Guild or Sheriff respectively.

Completion of
Purchaser's
Title.

92. Upon such Deposit being so made, the said Dean of Guild or Sheriff respectively shall pronounce his Decree or Warrant declaring the Purchase duly completed, and authorizing immediate Possession of the Tenements or Areas so sold to be given to the Purchaser thereof; and such Warrant or Decree shall, upon being registered in the Register of Sasines in which any of the prior Titles of such Subjects may have been registered, be a valid and sufficient Title to such Purchaser, who shall thereafter be at full Liberty to exercise every lawful Right of Property therein without being subject to Challenge by any Party whomsoever.

93. In case the Purchaser at any such Sale as aforesaid shall fail to fulfil the Conditions thereof within the Time thereby prescribed, it shall be lawful to the Dean of Guild or Sheriff respectively to cause the Tenements or Areas to be re-exposed and sold anew; and such Sale shall be proceeded in in every respect in like Manner as is herein-before provided in regard to the first Sale; and the Dean of Guild or Sheriff respectively shall continue, in case of Failure as aforesaid, to cause the said Tenements to be re-exposed for Sale, until the same shall be sold, and the Price thereof consigned or deposited in Bank as aforesaid.
94. Upon the Completion of any such Sale, the Dean of Guild or Sheriff respectively, on the Application of any of the Parties concerned, shall, upon such legal Evidence, by Writing, Witnesses, Oath of Party, or Report of skilled Persons, upon Oath or otherwise, as he may deem expedient, proceed to ascertain and determine the Extent and Value of the Share of each Party claiming Interest in the Tenements or Areas so sold, and to apportion and divide the Price obtained for the same, and deposited as aforesaid, and order Payment thereof to the several Parties accordingly, subject always to such Finding or Order in respect of Costs as the Dean of Guild or Sheriff respectively may pronounce.
95. If any Houses, Buildings, or other Tenements or Areas within the Burgh have become waste and ruinous, or have become Receptacles for Filth and other Nuisances, or unsafe and unfit for Use and Occupation, the Magistrates and Council may, by a Notice addressed to the Owner if his Address shall be known, or if not known by a Notice affixed to a conspicuous Part of such Houses, Buildings, or other Tenements or Areas, require the same to be rebuilt or otherwise put into a State of Repair to their Satisfaction, within Three Months from the Date of such Notice; and in the event of such Requisition not being complied with, the Magistrates and Council may apply to the Dean of Guild of the Burgh, or the Sheriff, according as such Houses, Buildings, or other Tenements or Areas shall be situated within their respective Jurisdictions, for Warrant to sell such Houses, Buildings, or other Tenements or Areas, and it shall be lawful to the Dean of Guild or Sheriff to order the same to be valued, and exposed for Sale by Public Auction, and to sell the same: Provided always, that such Sale shall be made and carried out, or Re-sale effected, the Price deposited and applied, and the Purchaser's Title completed, in the Way and Manner herein-before directed with reference to waste and ruinous Buildings or Tenements or Areas within Burgh, held by Two or more joint Owners.

If Purchaser do not fulfil Conditions of Sale, may be re-sold.

Application of Price.

Ruinous Tenements may be sold.

II. Nuisances and Obstructions in the Streets.

96. The Magistrates may from Time to Time make Orders for sanctioning public Processions when they think fit, and for prescribing the Route to be observed by all Carts, Carriages, Horses, and Persons, and for preventing Obstruction of the Streets, of the Burgh, public or private, in all Times of public Processions, Rejoicings, or Illuminations, and for regulating such Processions, and the Bands of Music accompanying the same, and in any Case when such Streets are thronged or liable to be obstructed, and may also make Orders for keeping Order and preventing any Obstruction of such Streets in the Neighbourhood of Theatres and other Places of public Resort; and every wilful Breach of any such Order shall be deemed an Offence against the Provisions hereof, and every Person committing any such Offence shall be liable to a Penalty not exceeding Forty Shillings.
97. If any Cattle be at any Time found at large in the Burgh, without any Person having the Charge thereof, any Constable or Officer of Police may seize and impound such Cattle, and the Owner thereof shall be liable to a Penalty not exceeding

Power to prevent Obstructions in the Streets during public Processions, &c.

Power to impound stray Cattle.

exceeding Forty Shillings, besides the reasonable Expenses of impounding and keeping such Cattle.

Power to sell
stray Cattle
for Penalty
and Expenses.

98. If the said Expenses be not paid within Three Days after such impounding the Person appointed by the Magistrates and Council for that Purpose may proceed to sell such Cattle or cause the same to be sold; but previous to such Sale Seven Days Notice thereof shall be given to or left at the Dwelling House or Place of Abode of the Owner of such Cattle, if he be known, or if not, then Notice of such intended Sale shall be given by Advertisement, to be inserted Seven Days before such Sale in some Newspaper published or circulated within the Burgh; and the Money arising from such Sale, after deducting the Expenses aforesaid, and all other Expenses attending the impounding, advertising, keeping, and Sale of any such Cattle so impounded, shall be paid to the Magistrates and Council, and shall be by them paid, on Demand, to the Owner of the Cattle so sold.

Penalty on
Persons com-
mitting any
of the Offences
herein named.

99. Every Person who in or near any Street or Court commits any of the following Offences shall, on Conviction on the Evidence of One or more credible Witnesses, be liable to a Penalty not exceeding Forty Shillings for each Offence:

Every Person who exposes for Show, Hire, or Sale (except in a Market or Market Place or Fair lawfully appointed for that Purpose) any Horse or other Animal; or exhibits in a Caravan or otherwise any Show or public Entertainment; or shoes, bleeds, or farries any Horse or Animal (except in Cases of Accident); or cleans, dresses, exercises, trains, or breaks or turns loose any Horse or Animal; or makes or repairs any Part of any Cart or Carriage (except in Cases of Accident where Repair on the Spot is necessary):

Every Person who allows any Bull or other dangerous Animal to be in any Street or Court without being secured by means of a Rope attached to a Ring though the Nose of such Animal, or otherwise:

Every Person who suffers to be at large any unmuzzled ferocious Dog, or sets on or urges any Dog or other Animal, to attack, worry, or put in fear any Person or Animal:

Every Owner of any Dog who suffers such Dog to go at large, knowing or having reasonable Grounds for believing it to be in a rabid State, or to have been bitten by any Dog or other Animal in a rabid State:

Every Person who, after public Notice given by any Sheriff or Magistrate directing Dogs to be confined on account of Suspicion of Canine Madness, suffers any Dog to be at large during the Time specified in such Notice:

Every Person who slaughters or dresses any Cattle or any Part thereof, except in the Case of any Cattle over-driven which may have met with any Accident, and which for the public Safety or other reasonable Cause ought to be killed on the Spot:

Every Person having the Care of any Cart or Carriage who rides on the Shafts thereof, or otherwise than on the Forepart of such Cart or Carriage, and in such a Position as readily to see immediately before and on either Side thereof; or who, without having Reins with a Bit attached thereto, and in the Mouth of the Animal drawing the same, and holding such Reins, rides upon such Cart or Carriage, or any Animal drawing the same, or who is at such a Distance from such Cart or Carriage, or in such a Position therein, as not to have due Control over every Animal drawing the same; or who does not, in meeting any other Carriage, keep his Cart or Carriage to the Left or Near Side, or who in passing any other Cart or Carriage does not keep

keep his Cart or Carriage on the Right or Off Side of the Road (except in Cases of actual Necessity, or some sufficient Reason for Deviation); or who, by obstructing any such Street, wilfully prevents any Person or Carriage from passing him, or any Cart or Carriage under his Care:

- 5 Every Person who at One Time drives more than Two Carts; and every Person driving Two Carts who has not the Halter of the Horse in the last Cart securely fastened to the Back of the First Cart, or has such Halter of a greater Length from such Fastening to the Horse's Head than Four Feet:
- 10 Every Person who drives furiously any Cattle:
- Every Person who causes any Cart, Carriage, Sledge, Truck, or Barrow, with or without Horses or any Beast of Draught or Burden to stand longer than is necessary for loading or unloading Goods, or for taking up or setting down Passengers (except Hackney Carriages, and Horses and other Beasts of
- 15 Draught or Burden, standing for Hire in any Place appointed for that Purpose by the Magistrates or other lawful Authority); and every Person who, by means of any Cart, Carriage, Sledge, Truck, or Barrow, or any Animal or other Means, wilfully interrupts any public Crossing or wilfully causes any Obstruction in any public Footpath or other public Thoroughfare:
- 20 Every Person who causes any Tree or Timber, Iron Beam, Stone, or other Thing, to be drawn or hauled otherwise than upon a wheeled Cart or Carriage, or who causes any Tree or Timber, Iron Beam, Stone, or other Thing to be drawn in or upon any Cart or Carriage without having sufficient Means of safely guiding the same:
- 25 Every Person who leads or rides any Horse or other Animal, or draws or drives any Cart, Carriage, Sledge, Truck, or Barrow upon any Footway, or fastens any Horse or other Animal so that it stands across or upon any Footway:
- Every Person who places or leaves any Furniture, Goods, Wares, or Merchandise, or any Cask, Tub, Basket, Pail, or Bucket, or places or uses any
- 30 Standing Place, Stool, Bench, Stall, or Showboard on any Footway, or who places any Blind, Shade, Covering, Awning, or other Projection over or along any Footway, unless such Blind, Shade, Covering, Awning, or other Projection is Eight Feet in Height at least in every Part thereof from the
- 35 Ground:
- Every Person who carries about on any Cart or Carriage or on Horseback any Picture, Placard, Notice, or other Advertisement, whether written, printed, or painted upon or posted or attached to any Part of such Cart, Carriage, or on any Board or otherwise:
- 40 Every Person who places, hangs up, or exposes to Sale any Goods, Wares, Merchandise, Matter, or Thing whatsoever, so that the same project into or over any Footway, or beyond the Line of any House, Shop, or Building at which the same are so exposed:
- Every Person who hangs or places any Linen or Clothes or other such Article
- 45 on any Rail or Fence of any Premises:
- Every Person who writes upon, soils, defaces, or marks any Wall, Fence, Hoarding, or Building, with Chalk, or Paint or in any other way, or who without Authority affixes or causes to be affixed to any Church, Chapel, or Schoolhouse, or without the Consent of the Owner or Occupier to any other
- 50 Building, or to any Wall, Fence, or Hoarding, any Bill or other Notice, or who wilfully breaks, destroys, or damages any Part of such Wall, Fence, Hoarding, or Building, or any Tree, Shrub, Seat, or other Thing:

- Every Person who conveys in any open Cart or otherwise the Carcases, or any Parts thereof, of Animals slaughtered for Sale, without the same being properly covered up from public View with clean Cloths, or such other Coverings as the Magistrates and Council may from Time to Time prescribe; or exposes such slaughtered Carcases, or any Parts thereof, or their Skins 5 or Offals, outside of the Doors or Windows of any Shop; or uses Machines to mince or hash such Animal Food, to the Annoyance of any of the Inhabitants in the Neighbourhood:
- Every Person who rolls or carries any Cask, Tub, Hoop, or Wheel, or any Ladder, Plank, Pole, Timber, Log of Wood, Basket, Board, or Tray upon 10 any Footway, except for the Purpose of loading or unloading any Cart or Carriage, or of crossing the Footway:
- Every Person who places any Line, Cord, or Pole across, upon, or over any Part of any Street or Court, or hangs or places any Clothes thereon, or on the Outside of any Window fronting any Street or Court: 15
- Every Person who commits any Nuisance:
- Every Person who discharges any Firearm, or throws or discharges any Stone or other Missile, or makes any Bonfire, or throws or sets fire to any Fire-work:
- Every Person who wilfully and wantonly disturbs any Inhabitant by pulling 20 or ringing any Door Bell or knocking at any Door, or who wilfully and unlawfull extinguishes the Light of any Lamp:
- Every Person who flies any Kite, or who makes or uses any Slide upon Ice or Snow:
- Every Person who persists in going upon the Ice at Duddingston, Dunsappie, 25 St. Margaret's, or other Lochs or Ponds at any Time when Placards are exhibited, or other Signals are shown intimating that it is in a dangerous State; and every Person who goes inside of the Ropes or Danger Signals placed at any Part of the said Lochs or Ponds:
- Every Person who cleanses, hoops, fires, washes, or scalds any Cask or Tub, 30 or hews, saws, bores, or cuts any Timber or Stone, or slacks, sifts, or screens any Lime:
- Every Person who throws or lays down any Stones, Coals, Slate, Shells, Lime, Bricks, Timber, Iron, or other Materials (except Building Materials so enclosed as to prevent Mischief to Passengers): 35
- Every Person who beats or shakes any Carpet, Rug, or Mat (except Rugs or Mats shaken before the Hour of Eight in the Morning):
- Every Person who fixes or places any Flower Pot or Box or other heavy Article in any upper Window, without sufficiently guarding the same against being blown down: 40
- Every Person who throws from the Roof or any Part of any House or other Building, any Slate, Brick, Wood, Rubbish, or other Thing, except Snow thrown so as not to fall on any Passenger:
- Every Occupier of any House or other Building, or other Person, who orders or permits any Person in his Service to stand on the Sill of any Window, 45 in order to clean, paint, or perform any other Operation upon the Outside of such Window, or upon any House or other Building, unless such Window be in the sunk or Basement Storey:
- Every Person who discharges any Smoke or Steam from any Premises (otherwise than from the Top thereof), or suffers or permits the condensed 50 Water or Moisture from any Steam Pipe, Flue, or Funnel to fall into or upon any Street or Court:

Every

Every Person who leaves open any Vault or Cellar, or the Entrance from any Street or Court to any Cellar or Room underground, without a sufficient Fence or Handrail, or leaves defective the Door, Window, or other Covering of any Vault or Cellar, or who does not sufficiently fence any Area, Pit, or Sewer left open, or who leaves such open Area, Pit, or Sewer without a sufficient Light after Sunset to warn and prevent Persons from falling thereinto :

Every Person who throws or lays any Dirt, Litter, or Ashes, or Nightsoil, or any Carrion, Fish, Offal, or Rubbish, Slops, or dirty Water, on any Street, back Area, Court, or Place, within the Burgh, or causes or allows any Matter, solid or liquid, to fall or run on any Street or Court: Provided always, that it shall not be deemed an Offence to lay Sand or other Materials in any Street or Court in Time of Frost to prevent Accidents, or Litter or other suitable Materials to prevent the freezing of Water in Pipes, or in case of Sickness to prevent Noise, if the Party laying any such Things causes them to be removed as soon as the Occasion for them ceases:

Provided always, that if any Rubbish, Lead, Iron, Wood, Goods, Commodities, or other Article, Matter, or Thing whatever shall be placed or allowed to remain in any Street or Court, it shall be lawful for and in the Power of the Superintendent or other Constable of Police to remove or cause the same to be immediately removed and carried to any Place of Safety, there to remain, at the Risk of the Owner and Person offending, and to detain the same until the Expense of Removal and Detention are paid; and if such Expense shall not be paid within Seven Days, the Judge may give Directions to sell or dispose of the same, and apply the Proceeds to the same Purposes as the Police Assessment.

100. Every Person who in or near any Street or Court commits any of the following Offences shall, on Conviction on the Evidence of One or more credible Witnesses, be liable to a Penalty not exceeding Five Pounds for each Offence, or in the Discretion of the Judge of Police before whom he is convicted, may, without a Penalty being inflicted, be committed to Prison, there to remain for a Period not exceeding Sixty Days; (that is to say,)

Every Person who rides or drives furiously, recklessly, or carelessly any Horse, Carriage, Cart, or other Vehicle:

Every Common Prostitute or Nightwalker who loiters or importunes Passengers for the Purpose of Prostitution:

Every Person who wilfully and indecently exposes his Person:

Every Person who publicly offers for Sale or Distribution, or exhibits to public View any profane, indecent, or obscene Book, Paper, Print, Drawing, Painting, Photograph, or other Representation:

Every Person who sings any profane or obscene Song, or uses any obscene, profane, or indecent Language.

101. The Owner of every Cart or Carriage used for the Conveyance of Goods, or plying for Hire, shall have his Christian Name, Surname, and Place of Abode, painted in a straight Line or Lines horizontally upon some conspicuous Part on the Off or Right Side of such Cart, or Carriage, in large legible Roman Letters, either of a dark Colour upon a light Ground, or of a light Colour upon a dark Ground, not less than One Inch in Height, with Numbers, beginning with Number One where more of such Carts or Carriages respectively than One shall belong to the same Owner, and proceeding in regular Progression, failing which such Owner shall be liable to a Penalty not exceeding Forty Shillings for every Time such Cart or Carriage shall be found in any Street or Court.

Owners of
Carts, &c. to
have Names
painted
thereon.

Persons under
14 Years of
Age not to
drive Carts,
&c.

102. The Owner of any Cart or Carriage who shall cause or permit such Cart or Carriage to be driven in any Street or Court by any Person who is not of the full Age of Fourteen Years, and every Person who in any Street or Court shall put a Cart or Carriage, and the Animal drawing the same, temporarily under the Charge or Care of a Person who is not of the full Age of 5 Fourteen Years, shall be liable to a Penalty not exceeding Forty Shillings.

Power to regu-
late Shows,
&c.

103. It shall be lawful for the Magistrates to restrain, regulate, or prohibit all public Shows, Exhibitions, or Representations, and the Use of Apartments in Common Tenements or of any Booth for dancing, on any Occasion, at any Time which shall appear necessary for preserving Order and Decorum, and to make and 10 establish Regulations and Prohibitions to that Effect; and if any Person shall open, or be concerned in opening, any public Show, Exhibition, Representation, or any Booth for Dancing, without the Sanction or Permission of the Magistrates, or shall contravene any such Regulation or Prohibition, such Person shall for every such Offence forfeit a Penalty not exceeding Five Pounds. 15

III. — *Prevention of Fraud.*

Regulations
may be made
for preventing
Fraud in the
Weight of
Hay, Straw,
&c.

104. In order to prevent Fraud in the Weight of Hay and Straw or other Commodities usually weighed in Carts, it shall be lawful for the Magistrates and Council to make Regulations for ascertaining the Weight or Quantity of 20 Hay or Straw or other Commodities brought within the Burgh, upon Parties voluntarily resorting to the said Weighing Machines for the Purpose, and for a Magistrate or Judge of Police to punish Persons disobeying such Regulations, by seizing, forfeiting, and selling such Hay and Straw and other Commodities so brought in contravention of such Regulations, or by imposing on the Of- 25 fender a Penalty to the Extent and in the Manner before prescribed in respect of Coals which have not been duly weighed.

Power to try
Weight of
Butter, &c.
made up in
Parcels, and
to seize and
confiscate if
found defi-
cient.

105. And for the Purpose of preventing Fraud in the Sale of Butter, Bread, and other Articles made up in Parcels or Quantities representing a Pound or Half Pound, or other larger or smaller specific Weight, it shall be lawful for 30 the Superintendent, Lieutenants, or Inspectors of Police, at any Time, or for any Police Constable on the Warrant of a Magistrate or Judge of Police, to try the Weight of such Parcels or Quantities of Butter, Bread, and other Articles brought within the Burgh for Sale, or sold or exposed or kept for Sale in any Shop, Store, or other Premises, or any Market Place within the Burgh; and for 35 that Purpose to enter any such Shop, Store, or other Premises within the Burgh; and if upon any such Trial or Examination any Parcel or Quantity shall be found light or deficient in Weight, it shall be lawful to seize the same, and to require the Person possessed thereof to appear before a Magistrate or Judge of Police, and in the event of Refusal, and such Person not being known as a Householder or Store or Shop Keeper within the said Limits, to convey such Person 40 before a Magistrate or Judge of Police, or to the Police Office, for Examination; and it shall be lawful for the Magistrate, or Judge of Police, on finding that any Parcel or Quantity of Butter, Bread, or other Article so seized is light or deficient and was so at the Time of Seizure, to declare the same forfeited, and to send the same to any charitable Institution, and to fine the Person in whose 45 Possession it has been found in a Sum not exceeding Forty Shillings for every Parcel or Quantity intended to represent a specific Weight found deficient.

Penalty on
committing
Frauds in
Weight of
Bread.

106. All Bakers and Dealers in Bread shall, on all Bread made or exposed by them for Sale (except Fancy Bread or Rolls), impress thereon, in large and distinct Figures, the Imperial Weight of such Bread; and any Person who shall 50 expose or offer for Sale or sell any Bread not so impressed shall be liable in a Penalty

Penalty not exceeding Forty Shillings for each Offence; and any Person who shall sell, or offer or expose for Sale, any Bread which shall be deficient or under the Weight so impressed, shall be liable in a Penalty not exceeding Forty Shillings for each Offence.

- 5 107. And for the further Prevention of Fraud the Magistrates shall have and may exercise the Powers and Jurisdictions conferred upon any Justice or Justices of the Peace by the Act of the Twenty-second George the Second, Chapter Twenty-seven, intituled "An Act for the more effectual preventing of
10 " Frauds and Abuses committed by Persons employed in the Manufacture
" of Hats, and in the Woollen, Linen, Fustian, Cotton, Iron, Leather, Fur,
" Hemp, Flax, Mohair, and Silk Manufactures, and for preventing unlawful
" Combinations of Journeymen Dyers and Journeymen Hotpressers, and of
" Persons employed in the said several Manufactures, and for the better Pay-
" ment of their Wages;" and by the Act of the Seventeenth George the Third,
15 Chapter Fifty-six, intituled "An Act for amending and rendering more effectual
" the several Laws now in being for the more effectual preventing of Frauds
" and Abuses by Persons employed in the Manufacture of Hats, and in the
" Woollen, Linen, Fustian, Cotton, Iron, Leather, Fur, Hemp, Flax, Mohair,
" and Silk Manufactures, and also for making Provisions to prevent Frauds by
20 " Journeymen Dyers;" and the Provisions of the said Acts shall apply to
Proceedings before the Magistrates, and to Acts done by them in relation
thereto, in the same Manner as to Proceedings before and Acts done by any
Justice or Justices of the Peace; and upon an Oath or solemn Affirmation or
Declaration being made before the Magistrates or any Justice or Justices of the
25 Peace that there is Cause to suspect that any Material purchased or received
by any Broker from any Person or Persons were purloined or embezzled, the
Magistrates or any Justice or Justices of the Peace may grant Warrant for
bringing the Person or Persons from whom the Broker purchased or received
such Materials before him or them; and if such Persons or Person shall not
30 give a satisfactory Account of how he, she, or they came by such Materials,
such Person or Persons shall be deemed guilty of a Misdemeanor or Offence, and
shall be punishable accordingly, in Terms of the said Two last-recited Acts, in
the same Manner as if such Materials had been found in the Possession of such
Person or Persons; and it shall be competent to the Magistrates, or to any Two
35 Justices of the Peace, to sentence such Person or Persons to pay any Fine not
exceeding the Amounts authorized by said Acts, or alternatively to commit such
Person or Persons to Prison for any Period not exceeding the Periods authorized
by the said Acts; and it shall not be necessary before committing such Person
or Persons to Prison to levy such Fines by Distress and Sale, or to use any legal
40 Diligence for Recovery thereof.

Magistrates to
have Powers
conferred
upon Justices
by 22 G. 2.
c. 27. and
17 G. 3. c. 56.

108. Every Occupier of any Premises used for the Sale of Butcher Meat, Poultry, Game, Fish, Butter, Meal, Bread, or any other Article of Food, who does not keep the same clean and in good Condition, to the Satisfaction of the Superintendent of Police, Inspector of Lighting and Cleaning, or other Person,
45 appointed by the Magistrates and Council for that Purpose, shall be liable to a Penalty not exceeding Twenty Shillings.

Penalty for
Want of
Cleanliness in
Meat and Pro-
vision Shops.

IV.—*Carriages, Omnibuses, &c.*

109. The Magistrates shall be empowered, and they are hereby authorized, to prevent within the Limits of their Jurisdiction the plying or running of Om-
50 nibuses or other Carriages for the Conveyance of Passengers which shall be in
a State of Dis-repair or Insecurity, or not adapted in all other respects for the

Regulations
as to Omni-
buses or Car-
riages plying
within Burgh.

Conveyance of Passengers with Safety and Comfort, or drawn by Horses not sufficiently strong or in good Condition, or not sufficiently trained or broken in, and that by imposing Penalties not exceeding for each Offence Five Pounds on the Owners or Contractors or Drivers of such Omnibuses or other Carriages which shall be found by the Magistrate or Judge of Police before whom the same may be brought to be in an unsafe or unfit State for the Conveyance of Passengers, or not drawn as aforesaid; and the Magistrates are further empowered to make Byelaws for regulating the Number of Passengers to be carried by and Times of running of such Omnibuses or other Carriages, the Places at which the same shall stand, the Times at which the same shall start, and all other Matters tending to promote Regularity and public Convenience, and may vary and alter the same from Time to Time, and may enforce the same against the Proprietors or Conductors or Drivers of such Omnibuses and other Carriages in like Manner and under a like Penalty.

V.—*Brokers and Pawnbrokers.*

Pawnbrokers not to act as Brokers, and Brokers not to take Articles in Pledge. 110. If any Pawnbroker shall act as a Broker, except in the Sale of Articles bonâ fide forfeited in accordance with the Provisions of the Pawnbrokers' Act, or if any Broker shall receive or take any Goods or Articles in Pledge, such Pawnbroker or Broker shall, upon Conviction thereof by the Oath of One or more credible Witness or Witnesses, for every such Offence be liable to a Penalty not exceeding Five Pounds. 15 20

Penalty on Brokers transacting Business between certain Hours. 111. It shall not be lawful for any Broker to sell to or purchase from or have any Business Transaction whatsoever with any Person between the Hours of Ten o'Clock of each Saturday Night and Nine o'Clock in the Morning of the following Monday, or between Ten o'Clock in any other Night and Eight o'Clock on the following Morning; and if any Broker shall offend herein, either by himself or his Servant or any other Person having the Charge of his Premises, and for whom in such Case he shall be held responsible, such Broker shall, on being convicted thereof by the Oath of One or more credible Witness or Witnesses, for every such Offence be liable to a Penalty not exceeding Five Pounds. 25

Pawnbrokers not to keep Smelting Pots. 112. Every Pawnbroker or Broker who shall keep or suffer to be in his Premises any Smelting Pot or Implement for melting, altering, or defacing Gold, Silver, Lead, or other Metals, shall for every such Offence be liable to a Penalty not exceeding Five Pounds, and such Smelting Pot or Implement shall be forfeited. 30

VI.—*Articles Found.*

Goods or Money found to be reported at Police Office, and Penalty if appropriated by Party finding. 113. All Goods, Money, or other Articles found within the Burgh, and for which at the Time the same are found no Owner may be known, shall be reported at the Police Office by the Person finding the same; and if any Person who shall find such Goods, Money, or Articles as aforesaid shall take possession thereof, and shall fail to report the same as aforesaid within Forty-eight Hours after such Possession, he shall be deemed guilty of an Offence, and be liable to a Penalty not exceeding Five Pounds: and if any Person who shall find such Goods, Money, or other Articles shall take possession thereof and shall apply the same to his own Use, he shall be deemed guilty of a higher Offence, and be liable to a Penalty not exceeding Ten Pounds, besides restoring the same to the Owner thereof: Provided always, that if within Six Months, or in the Case of perishable Articles within One Month, no Owner shall claim the same, it shall be lawful for the Judge to grant Warrant for the Sale or Disposal of such Goods, Money, or other Articles, the Proceeds of which, after deducting Expenses, and any Reward to the Finder which the Judge may allow, shall be paid to the Magistrates 35 40 45 50

Magistrates and Council, and be applied to the same purposes as the Police Assessment, and shall be by them paid to the Owner if he shall afterwards appear and claim the same.

VII.—*Suppression of Vagrants.*

- 5 114. It shall be lawful for any Constable to apprehend all Persons found begging, or exposing Wounds or Deformities, or exposing Children of tender Age to the Inclemency of the Weather, or causing Children to sing in Streets or public Thoroughfares, or placing themselves or otherwise acting so as to induce or for the Purpose of inducing the giving of Alms, and all Persons conducting themselves as Vagrants, having no fixed Place of Residence and no lawful Means of gaining their Livelihood, and all Persons who after having been convicted of Vagrancy, or of Housebreaking or Theft, are found in possession of any Picklock, Key, Crow, Jack, Bit, or other Implement usually employed in Housebreaking, or who, although not previously so convicted, are found in possession of any such Implement, or of any lethal Weapon, or in any Building or Part of a Building or other enclosed Space for any unlawful Purpose, or who, after having been convicted of Housebreaking or Theft, are found in any Street or other Place or with Intent to commit any Offence, or in possession of any Article without being able to give a satisfactory Account of their Possession thereof; and such Persons upon Conviction shall be liable to be imprisoned for any Period not exceeding Thirty Days, and for a Second or any subsequent Offence to Imprisonment for a Period not exceeding Sixty Days; and if any Money or Article be found upon their Persons such Money or Article may be forfeited, and applied to the same Purposes as the Police Assessment.

Vagrants, Beggars, &c., to be apprehended, and, upon Conviction imprisoned.

25 VIII.—*Places of Public Resort and Disorderly Houses.*

115. Every Person who shall permit any Breach of the Peace or riotous or disorderly Conduct within any Shop, Cellar, Room, Place of public Resort, House, Office, or other Premises occupied or kept by him, or shall knowingly harbour Prostitutes, or permit or suffer Men or Women of notoriously bad Fame, or dissolute Boys or Girls, to meet or assemble therein, or shall knowingly lodge, entertain, or harbour, to the Annoyance of any of the Inhabitants in the Neighbourhood, any Prostitute or idle Rogue or Vagabond, such Person so offending shall for every such Offence be liable in a Penalty not exceeding Ten Pounds: Provided always, that if any Person shall be found guilty of any such Offence a Second Time, it shall be lawful for the Judge of Police, on the Application of Three Householdors, or of the Procurator Fiscal, to eject and remove such Person summarily from the Premises possessed, occupied, or kept by him, and to impose such further Penalty on such Offender, not exceeding Twenty Pounds with Expenses, as to the Judge may seem fit.
- 40 116. Any Constable shall have Power by virtue of his Office at any Time to enter any Building or Part of a Building or other Place of the following Description, on hearing any disorderly Noise therein, or having Reason to believe or suspect that Persons accused or reasonably suspected of having committed any Offence, or that any Articles known or suspected to have been stolen or fraudulently obtained are to be found therein; viz.,

Penalty for harbouring disorderly Persons.

Officers may enter Public Houses on hearing disorderly Noise therein.

Any Place used for the Purpose of Stage Plays or Dramatic Entertainments, or for any public Show or Exhibition:

Any Singing or Dancing Saloon, Oyster Store, Fish Shop, Eating House, Coffee House, or such other Place:

[205.]

E 3

Any

Any Victualling House, Public House, or House in which Wine, Spirits, Beer, Cider, or other fermented or distilled Liquors are sold, or suspected to be sold, whether licensed or not:

Any common Brothel or House for the Reception of Prostitutes, or any House usually frequented by Thieves or loose and disorderly Persons: 5

Any Building or Part of a Building which is kept or used for a Purpose in respect of which a Licence is required by the Provisions of this Act:

And if the Keeper of any such Building, or Part of a Building or other Place, or any Servant or other Person having the Charge thereof, shall not admit such Constable when required, such Person shall for every such Offence forfeit and 10 pay a Sum not exceeding Five Pounds.

Penalty on Persons keeping Places for baiting Animals, and on Persons found therein.

117. Every Person who within the Burgh keeps or uses or acts in the Management of any House, Room, Pit, or other Place for the Purpose of fighting, baiting, or worrying any Animals shall be liable to a Penalty of not more than Five Pounds, or, in the Discretion of the Judge of Police before 15 whom he is convicted, to Imprisonment with or without Hard Labour for a Time not exceeding One Month without any Penalty being imposed; and the Judge may, by Order in Writing, authorize the Superintendent of Police, with such Constables as he thinks necessary, to enter any Premises kept or used for any of the Purposes aforesaid, and take into Custody all Persons found therein 20 without lawful Excuse, and every Person so found shall be liable to a Penalty not exceeding Five Shillings; and a Conviction for this Offence shall not exempt the Owner, Keeper, or Manager of any such House, Room, Pit, or Place from any penal Consequences to which he is liable for the Nuisance thereby occasioned. 25

Power to Superintendent, &c. to enter Gaming Houses and seize Implements of Gaming.

118. It shall be lawful for any Constable having good Grounds for believing that any House, Room, or Place is kept or used as a Gaming House to enter such House, Room, or Place and to take into Custody all Persons who shall be found therein, and to seize all Tables for and Instruments of Gaming found in such House, Room, or Place, and all Monies and Securities for Money found 30 therein; and the Owner or Keeper of such Gaming House, or other Person having the Care or Management thereof, and also any Person who shall act in any Manner in conducting such Gaming, shall be liable in a Penalty not exceeding Fifty Pounds; and upon Conviction of any such Offender all such 35 Tables and Instruments of Gaming shall be destroyed, and all the Monies and Securities for Money which shall have been seized as aforesaid shall be paid over to the Collector of Police, and applied in the same Way and Manner as Penalties by this Act are directed to be applied; and every Person found within such Premises without lawful Excuse shall be liable in a Penalty not exceeding 40 Ten Pounds.

Proof of Gaming for Money not necessary in support of Prosecution.

119. It shall not be necessary in support of any Prosecution under the Provisions hereof for Gaming in or suffering any Game or Gaming in such Gaming House, or for keeping or using or being concerned in the Management or Conduct of such House, to prove that any Person found playing at any 45 Game was playing for any Money, Wager, or Stake.

IX.—*Clocks.*

Power to Magistrates and Council to provide public Clocks.

120. The Magistrates and Council may from Time to Time, as they shall see fit, provide such Clocks as they consider necessary, and cause them to be fixed upon or against any public Building, or, with the Consent of the Owner or Occupier, upon or against any private Building the Situation of which may be 50 convenient for that Purpose, and may cause the Dials thereof to be lighted at Night,

Night, and from Time to Time alter and remove any such Clocks to such other like Situation as they shall consider expedient, and all Expenses so incurred by them shall be charged against the Police Assessment.

X.—*Fires.*

- 5 121. Every Person who wilfully sets or causes to be set on fire any Chimney within the Burgh shall be liable to a Penalty not exceeding Five Pounds: Provided always, that nothing herein contained shall exempt the Person so setting or causing to be set on fire any Chimney from Liability to be indicted or prosecuted therefor before any Criminal Court.

Penalty for wilfully setting Chimneys on Fire.

10 XI.—*Ventilation and Cleansing.*

122. Before beginning to build any Building intended to be used as a School, or a Place of public Amusement or Entertainment, or for holding large Numbers of People for any Purpose whatsoever within the Burgh, the Person intending to build the same shall give Thirty Days' Notice in Writing to the Magistrates and Council, and shall accompany such Notice with a Plan and Description of the Manner proposed for its Construction with respect to the Means of supplying fresh Air to or proper Access to and Exits from such Building; and no Person shall begin to build such Building until the Manner proposed for its Construction, with respect to the Means for supplying fresh Air, and proper
15
20
25
30
Accesses and Exits as aforesaid, has been approved of by the Magistrates and Council; and in default of sending such Notice, or if any such Building be erected without such Approval, the Magistrates and Council may cause such Building, or such Part of it as they consider necessary, to be pulled down or altered at the Expense of the Owner, and any Expense incurred by the Magistrates and Council in so doing may be recovered as herein-before provided with respect to ruinous or dangerous Buildings taken down or repaired by the Magistrates and Council; and with regard to such existing Buildings as are at the passing of the Act confirming this Provisional Order, or may thereafter be used for any of the said Purposes, the Magistrates and Council may cause the same to be inspected, and may direct such Means to be taken for their proper Ventilation, or for the providing of proper Means of Access and Exit, as to them shall seem fit.

Regulating construction of Buildings intended as Places for Public Meetings.

No Person to begin to build until Plan has been approved of by Magistrates and Council.

123. Provided always, if the Magistrates and Council fail to signify in Writing their Approval or Disapproval of the Manner of Construction of any
35
40
new Building with respect to the Means of supplying fresh Air, and of providing proper Accesses and Exits, shown on such Plan and Description as aforesaid, within Seven Days after receiving such Notice accompanied by such Plan and Description, the Person giving such Notice may, notwithstanding anything herein contained, proceed to build the Building therein referred to in the Manner shown on such Plan and Description, provided that such Building be otherwise in accordance with the Provisions hereof.

If Magistrates and Council fail to signify their Approval or Disapproval of Plan within 7 Days, Party may proceed to build.

124. Provided also, if the Owner or other Person so intending to build or the Owner of any existing Building be dissatisfied with the Determination of the Magistrates and Council as to the said proposed Manner of Construction, he
45
shall have the same Right of Appeal against the Determination of the Magistrates and Council, and such Appeal shall be conducted in the same Manner herein provided in the Case of Appeals against any Order of the Magistrates and Council with respect to Works to be constructed by or subject to the Approval of the Magistrates and Council.

Persons may appeal against Determination of Commissioners.

Common
Stairs to be
ventilated and
Houses let for
short Periods
to be cleansed.

125. The Owners of all Common Stairs and Common Passages shall have the same provided with proper Means of Ventilation to the Satisfaction of the Burgh Engineer or Inspector of Cleansing, and shall whitewash or paint the same as often as required to do so by the Burgh Engineer or Inspector of Cleansing, and the Owners of all Premises occupied as Dwelling Houses let for shorter Periods than Six Months shall whitewash and properly cleanse such Premises, and every Part and Pertinent thereof, to the Satisfaction of the Inspector of Cleansing, at least once in the Year, or oftener if required by the Inspector of Cleansing, and any such Owner failing to do so after receiving Forty-eight Hours Notice from the Inspector of Cleansing shall be liable to a Penalty not exceeding Forty Shillings.

Dwelling
Houses, &c.,
may be in-
spected and
cleansed at
Expense of
Owners.

126. It shall and may be lawful, at all reasonable Times, for the Medical Officer, Burgh Engineer, or Inspector of Cleansing to enter all Dwelling Houses and other Premises and their Pertinents, where he has Reason to believe that they are not in a cleanly Condition, or have an Accumulation of Filth therein and to cause the same to be cleansed and purified and such Filth to be removed therefrom at the Expense of the Owner of such Dwelling Houses and other Premises, reserving to the said Owner his Recourse against the Occupier thereof if such Accumulation of Filth shall have been caused or suffered to remain by such Occupier: Provided always, that if the Owner or Occupier of any such Dwelling House or other Premises shall object to the Entrance of such Medical Officer, Burgh Engineer, or Inspector as aforesaid, it shall not be lawful for such Medical Officer, Burgh Engineer, or Inspector to enter without a Warrant from a Magistrate or Judge of Police authorizing him so to do.

Offensive
Substances.

127. All Persons dealing in Rags, Bones, and other offensive Substances shall at all Times be bound to keep their Premises in which such Articles are kept in a cleanly State, to the Satisfaction of the Medical Officer or Inspector of Cleansing, and to fumigate such Premises with Chloride of Lime or other purifying Matter for removing offensive Smells at least Three Times a Week, at the Sight of such Medical Officer, or Inspector, or of any Person acting under them, and Access shall at all reasonable Times be given to such Medical Officer, or Inspector, or any Constable or other Person acting under them, for such Purpose; and any Person failing therein or refusing Access as aforesaid shall on Conviction before any Judge of Police, on the Testimony of One credible Witness or other legal Evidence, forfeit a Sum not exceeding Two Pounds for each Offence; and if it shall be established before any Judge of Police, on the Testimony of the Medical Officer of Health, or other Medical Practitioner, or other Evidence, that the collecting or keeping of Bones, or Rags, or other Substances in the Vicinity of any Dwelling House, Shop, or other Place is prejudicial to the Health or Comfort of Persons residing or employed therein, it shall be lawful for such Judge to order such Rags, Bones, or other Substances to be removed within such Time as he may see proper, and to prohibit such collecting or keeping in future, under a Penalty not exceeding Five Pounds.

POWERS AND REMEDIES.

I.—*Byelaws to be made.*

Byelaws.

128. The Magistrates and Council may from Time to Time make such Byelaws as they think fit for the several Purposes for which they are hereby, or by "The Edinburgh Police Act, 1848," "The Edinburgh Police Amendment Act, 1854," "The Edinburgh Municipality Extension Act, 1856," or by any other Act, Local or General, in operation within the Burgh, empowered to make Byelaws and

and from Time to Time repeal, alter, or amend any such Byelaws, provided such Byelaws be not repugnant with the Law of Scotland, or the Provisions hereof, or of the several Acts before recited or referred to, and be reduced into Writing, and have affixed thereto the Signatures of Two of the Magistrates and the Clerk, and, if affecting other Persons than the Officers or Servants of the Magistrates and Council, be confirmed and published as herein provided.

129. The Magistrates and Council, by the Byelaws so to be made by them, may impose such reasonable Penalties as they think fit, not exceeding Forty Shillings for each Breach of such Byelaws; and, in the Case of a continuing Violation of such Byelaws, the Sum of Five Shillings for every Day during which such Violation shall be continued: Provided always, that such Byelaws be so framed as to allow the Magistrate or Judge of Police before whom any Penalty imposed thereby is sought to be recovered to order the whole or Part only of such Penalty to be paid, or to remit the whole Penalty.

Byelaws may be enforced by Imposition of Penalties.

130. No Byelaw made by the Magistrates and Council under the Authority hereof, or of "The Edinburgh Police Act, 1848," "The Edinburgh Police Amendment Act, 1854," "The Edinburgh Municipality Extension Act, 1856," or any other Act, Local or General, in operation within the Burgh, except such as relate solely to the said Magistrates and Council, or to their Officers or Servants, appointed in pursuance of the said recited Acts, shall come into operation until the same be confirmed by the Sheriff and authenticated by his Signature; and it shall be incumbent on the Sheriff, on the Request of the Magistrates and Council, to inquire into any Byelaws tendered to him for that Purpose, and to allow or disallow the same as he may think meet; and in the event of its being at any Time deemed expedient, by the Magistrates and Council to alter, amend, or repeal any such Byelaw, it shall be incumbent on the Sheriff as aforesaid to inquire into and allow or disallow the same as he shall think meet.

Byelaws to be confirmed.

131. No such Byelaws shall be confirmed unless Notice of the Intention to apply for a Confirmation of the same have been given in One or more Newspapers circulating within the Burgh, One Month at least before the Hearing of such Application; and any Person desiring to object to any such Byelaw, on giving to the Magistrates and Council Notice of the Nature of his Objection Ten Days before the Hearing of the Application for the Allowance thereof, may, by himself, or his Counsel or Agent, be heard thereon, but not so as to allow more than One objecting Party to be heard on the same Matter of Objection without Leave of the Sheriff.

Notice of Confirmation to be given.

132. For One Month at least previous to any such Application for Confirmation of any Byelaw a Copy of the proposed Byelaws shall be kept at the Office of the Clerk, and all Persons may at all reasonable Times inspect such Copy without Fee or Reward; and the Magistrates and Council shall furnish every Person who applies for the same with a Copy thereof, written or printed, or of any Part thereof, on Payment of Sixpence for every One hundred Words so furnished.

A Copy of proposed Byelaws to be open to Inspection.

133. Such Byelaws, when confirmed, shall be printed; and the Clerk shall deliver a printed Copy thereof to every Person applying for the same at a Charge not exceeding One Penny; and a Copy thereof shall be painted or printed or placed on Boards, which shall be hung up on the Front or in some conspicuous Part of the Police Office or City Chambers, and also on some conspicuous Part of the Works or Locality to which the same relate, for a Period of not less than Three Months after the Date of such Confirmation; and any such Clerk who does not allow the same to be inspected at all reasonable

Publication of Byelaws.

Times shall for every such Offence be liable to a Penalty not exceeding Five Pounds.

Byelaws to be binding on all Parties.

134. Such Byelaws, when so confirmed and published, shall be binding upon and be observed by all Parties, and shall be sufficient to justify all Parties acting under the same.

5

Evidence of Byelaws.

135. The Production of a written or printed Copy of the Byelaws as confirmed by the Sheriff, certified by the Clerk, and a written or printed Copy of the Byelaws not requiring such Confirmation, authenticated by the Signature of the Clerk, shall be Evidence of the Existence and of the due making of such Byelaws in all Prosecutions under the same; and with respect to the Proof of the Publication thereof, it shall be sufficient to prove that a Board containing a Copy thereof was affixed and continued in the Manner by this Act directed, and in case of its being afterwards displaced or damaged that such Board was replaced or restored as soon as conveniently might be, unless Proof be adduced by the Party complained against that such painted Board did not contain a Copy of the Byelaw under which he is prosecuted, or that it was not duly affixed or continued as herein required.

10

15

Penalty on pulling down Boards.

136. Any Person who destroys, pulls down, injures or defaces any Board put up in Terms hereof on which any Byelaw of the Magistrates and Council is painted or placed shall for every such Offence be liable to a Penalty not exceeding Five Pounds.

20

II.—*Borrowing of Money.*

Power to Magistrates and Council to borrow Money for the Purposes of this Act.

137. It shall be lawful for the Magistrates and Council to borrow and take up, for any of the Purposes hereof, or of "The Edinburgh Police Act, 1848," "The Edinburgh Police Amendment Act, 1854," and "The Edinburgh Municipality Extension Act, 1856," other than the Construction, Alteration, Ventilation, or Maintenance of Sewers as herein-before provided, or for Repayment of any Monies borrowed for such Purposes which shall have fallen due to the Lenders thereof, such Sum or Sums and at such Time or Times as the Magistrates and Council shall deem necessary for such Purposes: Provided always, that in all Cases where it shall be necessary to borrow any Sum or Sums for the said Purposes (in excess of the Sum of 20,000*l.* Sterling, as herein-after specially provided), it shall be lawful for the Magistrates and Council, and they are hereby authorized and required, at their First Annual Meeting for Assessment after such borrowing, if the respective Rates of Assessment then leviable do not amount to the respective maximum Rates hereby authorized, to assess all Owners or Occupiers of Premises within the Burgh respectively liable in the several Assessments hereby authorized, in such additional Assessments beyond the Sums necessary for such respective Purposes as will produce a Fund of not less than Five per Centum per Annum upon the Sum or Sums so borrowed respectively, and also the annual Interest of such borrowed Sum or Sums, which Fund of not less than Five per Centum per Annum the Magistrates and Council shall annually appropriate, set apart, and invest, at the highest Rate of Interest which can be had for the same, in the Public Funds, or in any chartered or other Bank, or on heritable Security, as a Sinking Fund, applicable and to be applied by the Magistrates and Council from Time to Time to the Repayment of the Monies borrowed until the respective Debts shall be extinguished: Provided always, that such additional Assessment shall at no Time increase the whole Assessment leviable beyond the maximum Rates of Assessment (when a maximum Rate is fixed), as the Case may be allowed hereby; and provided also, that no Sum of Money shall be borrowed in excess of the said Sum of 20,000*l.* until an Estimate of

25

30

35

40

45

50

of the Amount required shall have been laid before the Magistrates and Council, or until the Expiration of Six Weeks after public Notice shall have been given by the Magistrates and Council of the Amount so proposed to be borrowed, and the Purpose to which the borrowed Money is to be applied, in all the daily
 5 Newspapers published within the Burgh; and provided further, that the Proposal to borrow shall be disposed of at the next Meeting of the Magistrates and Council Six Weeks after such public Notice, and shall require an absolute Majority of the whole of the Magistrates and Council, and that the Sum borrowed shall not exceed the Amount so advertised, without a further Estimate and
 10 Notice in manner above provided: Provided always, that in order to raise such Money as may be necessary to carry on the Purposes hereof, and of the several Acts before recited, until the several Assessments authorized hereby and by the said Acts are levied and collected, the Magistrates and Council may borrow on the Security of the said Assessments, in such Way and Manner as they may
 15 consider most expedient, a Sum or Sums of Money not exceeding in whole the Sum of 20,000*l.*, and may authorize the Treasurer or Collector to grant Bills or Bonds or obtain Cash Credits for the same, or make Overdrafts on their Accounts with their Banker or Bankers to that Extent, and if necessary to grant to the Party from whom such Money may be borrowed Assignations to the said
 20 Assessments, until the Sum or Sums so to be borrowed and Interest thereon shall be repaid and discharged.

138. No Magistrate or Councillor or Officer acting under the Magistrates and Council shall be personally liable for the Repayment of any Money so borrowed, but all such Obligations shall be deemed and taken to be granted on the sole
 25 Security of the Rates and Assessments authorized to be assessed and levied as herein-before provided.

139. All Bonds for Monies to be borrowed as aforesaid shall be signed by the Lord Provost and Treasurer of the City, and by the Clerk, and shall be in the Form and Tenor following, or in such other Form as may be agreed on ;
 30 videlicet,

‘ Number [*here state the Number*].
 ‘ BY virtue of an Act made in the Year of the Reign
 ‘ of Her Majesty Queen Victoria, intituled [*specify this Act*], the Lord
 ‘ Provost, Magistrates, and Council of the City of Edinburgh, in consideration
 35 ‘ of the Sum of [*insert the Sum in Words*] instantly advanced and paid to them
 ‘ for the Purposes of the said Act [*or Acts*], by *C. D.* of *E.*, do hereby bind and
 ‘ oblige themselves, and their Successors in Office, out of the first and readiest
 ‘ of the Monies to be raised under the annual Assessments by the said Act
 ‘ authorized to be imposed and levied, and designated the Assessment
 40 ‘ or Rate (*as the Case may be*), to pay at the Term of [*insert Term of Payment*]
 ‘ to the said *C. D.*, his Executors or Assignees, the said Sum of [*state the Sum*]
 ‘ and also the Interest thereof at the Rate of [*insert the Rate of Interest*] per
 ‘ Centum per Annum from the Date hereof, at the Terms of Whitsunday and
 ‘ Martinmas in each Year, till the said Sum is paid; and for the further Security
 45 ‘ of the said *C. D.*, the said Lord Provost, Magistrates, and Council hereby
 ‘ assign to him, his Executors or Assignees, such Proportion of the said Monies
 ‘ to be raised under the said annual Assessment as shall be equivalent to the
 ‘ said Sum now paid to them, and the Interest thereon as aforesaid from the
 ‘ Date hereof to the Term of Payment; and the said Lord Provost, Magistrates,
 50 ‘ and Council consent to the Registration hereof in the Books of Council and
 ‘ Session, or others competent, for Preservation, and that all competent Diligence
 [205.] F 2 may

Magistrates and Council not to be personally liable.

As to Bonds to be granted.

' may pass and be directed hereon, in Form as effairs, and thereto constitute
' their Procurators. In witness whereof

' [*insert Testing Clause in common Form*].

' *K.L.*, Witness.

A.B., Lord Provost.

' *M.N.*, Witness.'

B.C., Treasurer.

C.D., Clerk.

5

And till Repayment such Bonds respectively shall form a Lien on the Rates and Assessments assigned by such Bond, and shall entitle the Creditor under the same to recover the Contents thereof from the Magistrates and Council and their Officers out of the first and readiest of such Rates and Assessments.

10

Bonds may be transferred by Indorsement.

140. Such Bonds may be assigned by Indorsation on the Back thereof in the Form and Tenor following, videlicet,

' *I C.D.*, within designed, do transfer this Bond, with all Right, Title, or Interest which I have under the same, to *E.F.*, his [*or her, or their, as the Case may be,*] Executors and Assignees. In witness whereof [*insert Testing Clause in common Form*].

15

' *C.D.*

' *K.L.*, Witness.

' *M.N.*, Witness.'

Bonds to be recorded, and Assignations to be registered.

141. Before such Bond shall be delivered to the Creditor, or shall form a valid Lien on the Rates and Assessments as aforesaid, the same shall be recorded in the Minute Book of the Magistrates and Council, and a Certificate of such Registration shall be indorsed on such Bond and signed by the Clerk; and such Assignations shall be notified to the Clerk of the Magistrates and Council, who shall enter in the said Minute Book the Date of the said Assignment, the Names of the Parties thereto, the Number or Mark of such Bond and the Interest due on the same, as such Interest shall be certified by the Treasurer of Police; and a Certificate of such Entry shall be indorsed on the said Bond and signed by the Clerk; and the said Bond being so certified, the Assignee, his Executors and Assignees, shall thereafter be entitled to the full Benefit of such Bond in Terms of such Assignment; and the whole Expense attending the said principal Bonds and Assignment, including the recording and entering thereof, with the relative Certificate, shall form Part of the Expense for which such Assessments shall be leviable.

20

25

30

Power to borrow on Cash Credit Account.

142. It shall be lawful for the Magistrates and Council, instead of borrowing as herein-before provided, but without Prejudice to their Right to do so, to borrow, or accept or take from any Bank or Banking Company, in a Cash Credit Account, to be opened and kept according to the Usage of Bankers in Scotland, with such Bank or Banking Company, in Name of the said Magistrates and Council, any Sum or Sums of Money which they may be authorized to borrow under the Provisions hereof, and to make and grant Bonds and Assignations of the said Assessments in Security, and for Repayment of the Sums advanced from Time to Time upon such Cash Credit Account and Interest thereof: Provided always, that the Sums so borrowed shall be paid off and extinguished as herein provided.

45

On Failure to Pay after Demand made, Creditors may enter into possession.

143. If, after Demand made on Six Months' Notice in Writing to the Magistrates and Council they shall fail to pay the Sum due under any Bond and Assignment and Transfer thereof, it shall be competent to the Creditors by whom such Demand was made to apply by Petition to either Division of the Court of Session, or in Time of Vacation to the Lord Ordinary officiating on the Bills, who, upon Proof of such Demand and Failure, shall adjudge and sequester, for behoof of the whole Creditors, the Assessment or Assessments assigned and

50

and conveyed as aforesaid, and appoint a Judicial Factor, with Power to him to levy, collect, receive, and take the Revenues so assigned and conveyed, and to apply the said Assessment or Assessments for behoof of the whole Creditors, until the Sums due to the said Creditors, and all Interest exigible thereon, and
5 all necessary Expenses, shall be fully paid off and discharged.

144. It shall be lawful for the Commissioners acting in the Execution of the Act passed in the Nineteenth and Twentieth Years of the Reign of Her present Majesty, Chapter Seventeen, and in the Execution of any of the Acts recited in that Act, or of any Act or Acts for amending or continuing the same, to make
10 Advances to the Magistrates and Council upon the Security of all or any of the Monies or Rates to be assessed or levied by them under the said recited Acts, or under the Provisions hereof, and without requiring any further or other Security than a Mortgage of such Monies or Rates, repayable by such Instalments within a Period not exceeding Thirty Years, as shall in each Case be agreed
15 upon.

Public Loan Commissioners may lend Money.

III.—Purchase and Acquisition of Lands.

145. "The Lands Clauses Consolidation (Scotland) Act, 1845," shall be incorporated with and form Part of this Act with respect to the Provisions thereof as to acquiring Lands by Agreement.
146. The Provisions of Section 51 of "The Edinburgh Municipality Extension Act, 1856," with reference to Conveyances of Heritable Property to be acquired for the Purpose of the several Police Acts therein referred to, shall also apply to the Rights of all Heritable Property to be acquired under the Provisions, or for the Purposes hereof.

Part of 8 & 9 Vict. c. 19. incorporated.

Rights of Heritable Property how to taken.

IV.—Execution of Works by Magistrates and Council.

147. The Magistrates and Council shall for the Purposes hereof, and of "The Edinburgh Police Act, 1848," "The Edinburgh Police Amendment Act, 1854," and "The Edinburgh Municipality Extension Act, 1856," have Power, by themselves or their Officers, to enter at all reasonable Hours in the Daytime
30 into and upon any Premises within the Burgh, as well for the Purpose of Inspection as for the Purpose of executing any Work authorized to be executed by them under the Provisions hereof, or of the several Acts before referred to, without being liable to any legal Proceedings on account thereof: Provided always, that, except when herein otherwise provided, the Magistrates and Council
35 or their Officers shall not make any such Entry, unless with the Consent of the Occupier, until after the Expiration of Forty-eight Hours Notice for that Purpose given to the Occupier.

Magistrates and Council empowered to enter upon Premises for Purposes of this Act.

148. Every Person who shall at any Time resist, obstruct, or molest any Constable, Officer, Watchman, Workman, or other Person employed in the
40 Execution of any Duty or the Performance of any Work, by virtue of the Provisions hereof or of the several Acts before referred to, or of any Warrant of the Magistrates, or any of them, or of any Byelaw, Regulation, or Order of the Magistrates and Council, or shall aid or incite any Persons so to do, or shall not, when required by a Constable, afford him every reasonable Aid and Assist-
45 ance in preventing the Escape of any Person whom he has taken into Custody, and is conveying to the Police Office or to Prison, such Person so offending shall for every such Offence be liable to a Penalty not exceeding Five Pounds; and if any Person shall assault or strike any such Constable, Officer, Watchman, Workman, or other Person employed as aforesaid, or aid or incite any Person to

Penalty on Persons obstructing Magistrates and Council or Constables in their Duty.

rescue or attempt to rescue any Prisoner whom any such Constable, Officer, Watchman, or other Person shall have in Custody, or be aiding to secure such Person so offending, shall for every such Offence be liable to a Penalty not exceeding Ten Pounds, or Imprisonment for not more than Sixty Days, without Prejudice to any Constable, Watchman, or other Person on whom such Assault 5 or Offence may have been committed to sue in any competent Court for Compensation, Damages, or Expenses for any Injury or Loss he may thereby have sustained.

Magistrates and Council to give Notice of new Levels or Sewers.

149. Twenty-eight Days at the least before fixing the Level of any Street which has not been theretofore levelled or paved, and before making any Sewer 10 where none was before, or altering the Course or Level of or abandoning or stopping any Sewer, the Magistrates and Council shall give Notice of their Intention by posting a printed or written Notice in a conspicuous Place at each End of every such Street through or in which such Work is to be undertaken, which Notice shall set forth the Name or Situation of the Street intended to be 15 levelled or paved, and the Names of the Places through or near which it is intended that the new Sewer shall pass, or the existing Sewer be altered or stopped up, and also the Places of the Beginning and the End thereof, and shall refer to the Plans of such intended Work, and shall specify a Place where such Plans may be seen, and a Time and Place where all Persons interested in 20 such intended Work may be heard thereupon.

Meeting of Magistrates and Council to hear Objections.

150. The Magistrates and Council, or a Committee of their Number appointed for the Purpose, shall meet at the Time and Place mentioned in the said Notice to consider, in the Presence of the Burgh Engineer, any Objections made against 25 such intended Work, and all Persons interested therein, or likely to be aggrieved thereby, shall be entitled to be heard before the Magistrates and Council or Committee at such Meeting; and thereupon the Magistrates and Council or Committee may, in their Discretion, abandon or make such Alterations in the said intended Work as they judge fit.

Persons aggrieved by Orders of Magistrates and Council may appeal to the Sheriff.

151. Any Person liable to pay or to contribute towards the Expense of any 30 of the Works aforesaid, or otherwise aggrieved by any Order of the Magistrates and Council relating thereto, may, at any Time within Seven Days next after the making of any such Order, give Notice in Writing to the Magistrates and Council that he intends to appeal against such Order to the Sheriff, and along with such Notice he shall give a Statement in Writing of the Grounds of the 35 Appeal; and if within Four Days next after giving such Notice the Party grant Bond to the Sheriff, with a sufficient Cautioner to the Satisfaction of the Sheriff, to abide the Order of the Sheriff, and pay such Costs as shall be awarded by the Sheriff thereupon, the Work so appealed against shall not be begun until after the Judgment of the Sheriff upon such Appeal; and the 40 Sheriff, upon due Proof of such Notice, and upon such Caution being found, shall hear and determine the Matter of the Appeal, and shall make such Order thereon, either confirming, quashing, or varying the same, and shall award such Costs to either of the Parties as the Sheriff in his Discretion thinks fit: Provided always, that the Appellant shall not be heard in support of such 45 Appeal unless such Notice and Statement have been given and such Caution found as aforesaid, nor, on the Hearing of such Appeal, shall he go into Evidence of any other Grounds of Appeal than those set forth in such Statement as aforesaid.

Notice to be given by Magistrates and Council, and

152. And in respect to Appeal as to all other Matters and Things which the 50 Magistrates and Council are by the Provisions hereof empowered to do or perform, or to authorize to be done or performed, and the Cost attending which falls

- falls by the Provisions hereof to be provided for by way of Private Improvement Assessment, the Magistrates and Council shall, where not otherwise hereby directed, give Notice of their Intention to do or perform or to authorize to be done or performed such Matter or Thing, either by public Advertisement in some Newspaper circulating in the Burgh, or by posting Handbills in conspicuous Places in the Burgh, or by Notice in Writing to be transmitted through the Post Office, or delivered personally, or at their Dwelling Houses to the Individuals having Interest, as the Magistrates and Council shall think proper ; and it shall be lawful for any Person whose Property shall be taken or affected, and who shall consider himself injured or aggrieved in respect of such other Matters and Things by this Act so directed to be done or performed and provided for, to appeal to the Sheriff from any Order made or Notice given by the Magistrates and Council in respect of such Matters or Things, in the Manner and to the Effect herein last before provided and directed ; and if such Matter or Thing shall not be made the Subject of Appeal to the Sheriff, or being appealed shall be allowed by him, the Magistrates and Council may proceed with the same, and levy the Assessments in reference thereto hereby authorized : Provided always, that all such Appeals provided for in this and the immediately preceding Clause, and all other Appeals to the Sheriff allowed hereby, not otherwise provided for, shall be disposed of summarily, and the Decision of the Sheriff shall in all Cases be final and conclusive, and not subject to Review by Suspension, Reduction, or Advocacion, or in any Manner of Way.

Appeal to the Sheriff.

Appeals to be disposed of summarily, and Decision of the Sheriff final.

V.—Execution of Works by Owners.

153. Where under the Provisions hereof, or of “The Edinburgh Police Act, 1848,” “The Edinburgh Police Amendment Act, 1854,” or “The Edinburgh Municipality Extension Act, 1856,” any Notice is required or falls to be given to the Owner or Occupier of any Premises in reference to the Purposes hereof, or of the several Acts before referred to, such Notice, addressed to the Owner or Occupier of such Premises, as the Case may require, may be served on the Occupier of such Premises, or left with some Inmate of his Abode, or, if there be no Occupier, may be put up on some conspicuous Part of such Premises ; and it shall not be necessary in any such Notice to name the Occupier or the Owner of such Premises : Provided always, that when the Owner of any such Premises and his Residence are known to the Magistrates and Council, it shall be the Duty of the Magistrates and Council, if such Owner be resident within the Burgh, to cause every Notice required to be given to the Owner to be served on such Owner, or left with some Inmate of his Abode ; and if such Owner be not resident within the Burgh, they shall send every such Notice by Post, addressed to the Residence of such Owner.
154. Whenever under the Provisions hereof, or of the several Acts before referred to, any Work of any Kind falls to be executed by the Owner or Occupier of any Premises, and Default is made in the Execution of such Work, the Magistrates and Council may cause such Work to be executed, and the Expense incurred by the Magistrates and Council in respect thereof shall be repaid to them by such Owner or Occupier, with Interest thereon at the Rate of Five per Centum per Annum from the Time when such Expense was paid by the Magistrates and Council.
155. Whenever Default is made by the Owner of any Premises in the Execution of any Work which by the Provisions hereof, or of the several Acts before referred to, falls to be executed by him, the Occupier of such Premises

As to Service of Notice on Owners and Occupiers.

In default of Owner or Occupiers Magistrates and Council may execute Works, and recover Expenses.

Occupier, in default of Owner, may execute Works, and

deduct Ex-
penses from
his Rent.

may, with the Approval of the Magistrates and Council, cause such Work to be executed, and the Expense thereof shall be repaid to such Occupier by the Owner of such Premises, and such Occupier may deduct the Amount of such Expense out of the Rent from Time to Time becoming due to such Owner.

How Expenses
are to be re-
covered from
Owner.

156. If the Owner of any Premises made liable by the Provisions hereof, or of the several Acts before referred to, for any Rate, Assessment, or Charge for the Repayment to the Magistrates and Council of any Expenses incurred by them do not, as soon as the same become due and payable from him, pay such Rate, Assessment, or Charge, or repay all such Expenses to the Magistrates and Council, the Magistrates and Council may, without Prejudice to the Power herein-before contained, recover such Rate, Assessment, Charge, or Expenses, with Interest thereon at the Rate of Five per Centum per Annum, from the Time when the same was due and payable, from such Owner, in the same Manner as any Debt may be recovered by the Law and Practice of Scotland.

Power to levy
Charges on
Occupier, who
may deduct
the same from
his Rent.

157. The Magistrates and Council may, by way of additional Remedy, require the Payment of all or any Part of such Rate, Assessment, Charge, or Expenses, and Interest, payable by the Owner for the Time being from the Person who then or at any Time thereafter occupies any such Premises under such Owner; and in default of Payment thereof by such Occupier, on Demand, the same may be levied by Seizure and Sale of the Goods and Effects of such Occupier, in the same Manner as the Police Assessment may be recovered from him under the Provisions hereof; and every such Occupier shall be entitled to deduct from the Rent payable by him to his Landlord so much as is so paid by or recovered from him in respect of any such Assessment, Charge, or Expenses and Interest.

Occupier not
to be liable
for more than
the Amount of
Rent due.

158. Provided always, That no Occupier of any Premises shall be liable to pay more Money in respect of any Sums charged in virtue of the Provisions hereof, or of the several Acts before referred to, on the Owner thereof than the Amount of Rent due from him for the Premises in respect of which such Rate, Assessment, Charge, or Expenses and Interest are payable at the Time of the Demand made upon him, or which at any Time after such Demand, and Notice not to pay the same to his Landlord, have accrued, and become payable by him, unless he neglect or refuse, upon Application made to him for that Purpose by the Magistrates and Council, truly to disclose the Amount of his Rent, and the Name and Address of the Person to whom such Rent is payable; but the Burden of Proof that the Sum demanded of any such Occupier is greater than the Rent which was due by him at the Time of such Demand, or which has since accrued, shall lie upon such Occupier: Provided further, that nothing herein contained shall be taken to affect, abridge, or alter any Claim of Relief or otherwise competent to such Owner or Occupier respectively against each other under any special Contract made between them respecting the Payment of the Expenses of any such Works as aforesaid.

Allocation of
Expenses
among several
Owners or
Occupiers,
how to be
made.

159. Wherever by the Provisions hereof, or of the several Acts before referred to, the Owners or Occupiers of any Lands or Premises within the Burgh are required to execute Works or to defray Expenses in proportion to the Rents or annual Value of the Lands and Premises belonging to or occupied by them respectively or otherwise, and a Dispute shall arise among the Parties, or any of them, relative to their Proportion of the Cost of such Works, or of such Expense, the same shall be determined by the Magistrates, or any One of them, in a summary Manner, and such Decision shall be final.

Magistrates
and Council
may allow

160. Where any such Rate, Assessment, Charge, or Expenses payable to the Magistrates and Council by any Owner of any such Premises amount to more than

than Half the Amount of the net annual Value of such Building or Lands, the Magistrates and Council may, if they think fit, at the Request of any such Owner, allow Time for the Repayment thereof, and receive the same by such Instalments as they, under the Circumstances of the Case, consider reasonable, but
 5 so that the same be repaid by annual Instalments of not less than One Seventh Part of the whole Sum originally due, with Interest for the Principal Money from Time to Time remaining unpaid after the yearly Rate of Five Pounds in the Hundred during the Period of Forbearance; and all such Sums remaining due, notwithstanding the Magistrates and Council have agreed to allow any Time
 10 for the Repayment thereof as aforesaid, shall from Time to Time, at the Expiration of the several Times so allowed for Repayment thereof, be recoverable in like Manner as such respective Amounts would have been recoverable if no such Time had been allowed for Repayment thereof.

Time for Repayment by Owners of Improvement Expenses.

161. If the Occupier of any Premises within the Burgh prevent the Owner thereof from carrying into effect in respect of such Premises any of the Provisions hereof, or of the several Acts before referred to after Notice of his Intention so to do has been given by the Owner to such Occupier, the Magistrate or Judge of Police may make an Order in Writing requiring such Occupier to permit the Owner to execute all such Works with respect to such
 20 Premises as may be necessary for carrying into effect the Provisions hereof, and of the several Acts before referred to; and if, after the Expiration of Ten Days from the Date of such Order such Occupier continue to refuse to permit such Owner to execute such Works, such Occupier shall for every Day during which he so continues to refuse be liable to a Penalty not exceeding Five Pounds; and
 25 every such Owner, during the Continuance of such Refusal, shall be discharged from any Penalties to which he might otherwise have become liable by reason of his Default in executing such Work.

Proceedings in case of Tenants opposing the Execution of this Act.

162. Nothing herein contained shall extend to or make void any Agreement in Writing entered into before the passing of the Act confirming this Provisional Order for erecting or altering any Building, but the same shall be performed, with such Alterations as may be rendered necessary by the Provisions hereof, and as if such Alterations had been stipulated for in such Agreement; and the Difference between the Cost of the Work according to the Agreement and the Cost of such Work as executed according to the Provisions hereof shall be
 35 ascertained by the Parties to the respective Agreements, and paid for, or deducted, as the Case may require; and if the said Parties do not agree upon the Amount of such Difference, the same shall, on the Request of either Party (Notice being given to the other) be decided by the Burgh Engineer, and for his Trouble in making such Decision each of the said Parties shall pay
 40 to the said Burgh Engineer such Sum not exceeding One Pound, and to be disposed of for such Purposes hereof as the Magistrates and Council shall direct.

Respecting existing Contracts for building.

163. Nothing herein contained shall affect any Lease or Agreement for a Lease whereby any Person may be bound to erect Buildings upon any Building
 45 Ground within the Burgh, but the Buildings mentioned in such Lease or Agreement shall be built, according to the Conditions which may be rendered necessary by the Provisions hereof, in the same Manner as if the Act confirming this Provisional Order had been passed and in operation at the Time of making such Lease or Agreement, and the same had been made subject thereto, and
 50 that without either Party being entitled to any Compensation.

Respecting Contracts for Leases.

VI.—*Jurisdiction and Recovery of Penalties.*

Jurisdiction
of Magis-
trates of Police
under this
Act.

164. The Judges of Police or any One or more of them shall have Jurisdiction and Power to take cognizance of all Crimes, Offences, Misdemeanors, and Breaches of the Police Regulations herein-before contained, and of all Offences, Matters, and Things falling under the Provisions of "The Edinburgh Police Act, 1848," "The Edinburgh Police Amendment Act, 1854," and "The Edinburgh Municipality Extension Act, 1856," in so far as such Provisions are not repealed or altered, or of any Byelaw made in virtue of the Provisions hereof, or of the several Acts immediately above referred to, and of any other Crime or Offence which is punishable by Public General Statute or Common Law, and is within the Jurisdiction of the Magistrates of any Royal Burgh, and shall have all such and the like Jurisdiction as any Magistrate of a Royal Burgh has by the Law of Scotland within the Royal Burgh for which he acts as a Magistrate: Provided always, that nothing herein contained shall be held to alter or in any Degree to affect the Provisions of the 244th Section of "The Edinburgh Police Act, 1848."

Magistrates of
Police may ap-
point Procura-
tor Fiscal.

165. It shall be lawful for the Magistrates and Council to appoint from Time to Time, by Writing and during Pleasure, the Superintendent of Police or other fit Person to be Procurator Fiscal of, and conduct Prosecutions and other Proceedings in, the Police Court in all Cases cognisable by the Judges of Police, and such Procurator Fiscal shall have all such and the like Powers and Privileges as by Law appertain to any Procurator Fiscal by the Law of Scotland: Provided always, that the Superintendent of Police, although not appointed Procurator Fiscal, the Burgh Engineer, and the Inspector of Lighting and Cleansing shall respectively also be entitled to act as Procurator Fiscal in the Police Court in all Cases arising out of any Breach of the Provisions hereof or of the several Acts above referred to, or of any Byelaws made in virtue hereof, or of the said Acts, in so far as such Provisions relate to any Matters or Things placed under their Charge respectively.

Interim Fiscal.

166. In the temporary Absence of the Procurator Fiscal appointed or acting as herein authorized, occasioned by Indisposition or other Cause, it shall be lawful for any Lieutenant of Police, with the written Authority of the said Procurator Fiscal, to perform ad interim the Duties of such Procurator Fiscal, in the Name of such Procurator Fiscal, and to insist in any Proceedings which may have been commenced in the Name of such Procurator Fiscal.

Forms of Pro-
cedure in
Police Court.

167. All Actions, Prosecutions, and Proceedings for Crimes and Offences committed within the Burgh, or for the Recovery of Fines, Penalties, Forfeitures, or Expenses under the Provisions hereof, or of "The Edinburgh Police Act, 1848," "The Edinburgh Police Amendment Act, 1854" and "The Edinburgh Municipality Extension Act, 1856," in so far as the Provisions of the said Acts are not repealed or altered, or of any Byelaws made in virtue hereof or of the said Acts, the Mode of recovering which is not otherwise provided for, shall be conducted before the Judges of Police, in the Police Court, at the Instance of the Procurator Fiscal, appointed or acting as herein authorized; and (with the Exception of Complaints against Chain Droppers, Thimblers, loaded Dice Players, and Offenders of that Description) such Complaint, in all Cases of Theft or of Reset of Theft, or of Falsehood, Fraud, and wilful Imposition, or of Breach of Trust and Embezzlement, shall bear that the Sum of Money or the Value of the Article stolen, resetted, obtained by Falsehood, Fraud, and wilful Imposition, or embezzled, does not exceed Ten Pounds; and it shall not be competent there- after to the Person accused (except where an Offer shall be made at the Time)

to

to prove that the Money or Article stolen, resetted, obtained, or embezzled exceeded in Value the Sum of Ten Pounds: and it shall be competent to the Judges of Police, where no special Penalty is attached to the Crime or Offence charged, to sentence the Person convicted of such Crime or Offence to Imprisonment for any Period not exceeding Sixty Days, or to adjudge Penalties not exceeding Ten Pounds; and the whole Procedure before such Judges of Police or any of them shall be conducted summarily, *vivâ voce*, and without written Pleadings; and no other Record shall be kept of the Proceedings except the Complaint and the Judgment pronounced thereon; and it shall not be competent to any Party who shall appear to answer to any Complaint to plead Want of due Citation, or Informality in the Warrant, Citation, or Execution.

168. The Judges of Police, with the Advice and Approbation of the Lord Justice General and the Lord Justice Clerk for the Time being, shall and they are hereby authorized and required, when necessary, to frame Rules and Regulations and Forms of Procedure for the said Police Court, calculated to despatch the Business thereof in the easiest and most expeditious Manner, and from Time to Time to alter and amend the same.

Forms of Procedure to be framed.

169. If it shall appear, either in the preliminary Investigation of the Charges against any Person accused of having committed any Crime or Offence within the Burgh, or during his Trial before the Judge of Police, that such Person has been guilty of, or is charged with any of the Crimes denominated the Pleas of the Crown, (*videlicet*), Murder, Robbery, Rape, and wilful Fire-raising, or with the Crimes of Stouthrief, or of Theft by Housebreaking, or of Housebreaking with Intent to steal, or of Theft to an Amount exceeding Ten Pounds, or of Theft by opening lockfast Places, or of Theft aggravated by being Habit and Repute a common Thief, or by having been twice previously convicted of Theft, or of Reset of Theft, to an Amount exceeding Ten Pounds, or of Reset of Theft aggravated by having been twice previously convicted of that Crime, or of Falsehood, Fraud, and wilful Imposition to an Amount exceeding Ten Pounds, or of Falsehood, Fraud, and wilful Imposition aggravated by having been twice previously convicted of that Crime, or of Breach of Trust and Embezzlement to an Amount exceeding Ten Pounds, or of Breach of Trust and Embezzlement aggravated by having been twice previously convicted of that Crime, or of Assault to the Danger of Life, or of Assault whereby any Limb has been fractured, or of Assault with any Knife or other lethal Instrument where Effusion of Blood has followed, or of Assault aggravated by Two previous Convictions for that Crime, or of Assault with Intent to ravish, or of Attempt at wilful Fire-raising, or of culpable Homicide, or of Forgery, or of uttering forged Bank or Banker's Notes, or if the Crime or Offence charged, from having been committed beyond the Limits of the Burgh, or from being otherwise excluded from the Jurisdiction of the Judge, falls to be tried in another Jurisdiction; or if the Crime or Offence charged shall in the Opinion of the Judge merit a higher or greater Punishment than he can lawfully award; it shall not be competent for the Procurator Fiscal to insist in a Prosecution against such Person before the Judge of Police, but the Judge shall commit the Person accused to Prison for Examination, and the Procurator Fiscal shall forthwith give Notice of such Commitment to the Procurator Fiscal, or other proper Officer for the City, County, Burgh, or other Jurisdiction within which the Crime or Offence shall be charged to have been committed, or if charged to have been committed on the High Seas, or out of the United Kingdom, to the Lord Advocate of Scotland, in order that such Person may be proceeded against conformably to Law; Provided always, that the aforesaid Provision shall not apply to Chain Droppers, Thimblers, loaded Dice Players, and Offenders of that Description, whom the Judge of

Certain Crimes not competent to be taken cognizance in the Police Court.

Police is hereby specially empowered to try and sentence, whatever may be the Amount of the Sum specified in the Charge against them, or however often they may have been previously convicted.

Officers or Owners of Property, &c. may take Offenders and suspected Persons into Custody.

170. Any Person found committing any Crime or Offence cognizable by the Judges of Police, may, without a Warrant, be apprehended by the Owner of the Property on or with respect to which the Crime or Offence shall be committed, or by his Servant or any Person authorized by him, and be detained until he can be delivered into the Custody of a Police Constable; and any Police Constable may search any Premises, and may also stop, search, and detain, any Vessel, Boat, Cart, or Carriage in or upon which there shall be Reason to suspect that anything stolen or unlawfully obtained, or fraudulently carried away, may be found, and also any Person who may be reasonably suspected of having or carrying in any Manner anything stolen or unlawfully or fraudulently obtained or carried away; and may seize, impound, and convey to the Police Office anything known, or reasonably suspected, to have been stolen, or unlawfully or fraudulently obtained; and it shall be lawful for any Pawnbroker, or other Broker or Dealer, or any other Person to whom any Goods or Articles which shall be reasonably suspected to be stolen or illegally obtained shall be offered to be pawned, sold, or delivered, and he is hereby required to detain the Person offering the same, and for any Officer or Constable to take such Person into Custody, and such Person, whether apprehended by any Constable or given into the Custody of any Constable, may, on Examination by the Judge of Police, be remanded to the Police Office, or committed to Prison for a Period not exceeding Three lawful Days, or till Bail be given for his Appearance within the said Term for further Examination, and if on further Examination the Judge of Police shall be satisfied that the Goods or Articles were stolen or otherwise illegally obtained he may commit the Person charged to Prison to be dealt with according to Law: Provided always, that the Superintendent or Lieutenant on Duty at the Police Office shall, without Delay, inquire as to the Circumstances attending the Possession of such Goods or Articles, in order to his determining whether the Party shall be immediately discharged or liberated on Bail in manner herein provided; and further, provided that any Constable, Pawnbroker, Broker, or Dealer, or any other Person who shall detain any Person under this Provision shall be freed from Responsibility, unless Malice be averred and proved.

35

Horse, Carriage, or Vessel of Persons taken into Custody may be secured.

171. When any Person having charge of any Horse, Cart, Carriage, Vessel, or Boat, or any Animal or Thing, shall be taken into the Custody of any Constable, it shall be lawful for any Constable to take charge of such Horse, Cart, Carriage, Vessel, or Boat, or Animal, or Thing, and to deposit the same in some Place of safe Custody as a Security for Payment of any Expenses which may have been necessarily incurred for taking charge of and keeping the same; and unless the same shall be claimed by the Owner, and all Expenses incurred thereon paid within Four Days after such Detention, it shall be lawful for the Judge of Police, upon the Application of the Procurator Fiscal, to order the Sale of any such Horse, Cart, Carriage, Vessel, or Boat, or any Animal or Thing so detained, and the Proceeds of such Sale to be applied towards the necessary Expenses incurred, the Overplus, if any, being paid to the Owner on Demand.

40

45

Limitation of Police Prosecutions.

172. All Actions, Prosecutions, or Proceedings before the Judges of Police for Recovery of Fines, Penalties, Forfeitures, or Expenses shall be commenced within Three Months from the Time the Facts on which such Actions, Prosecutions,

50

tions,

tions, or Proceedings were brought shall have been discovered and known, and not thereafter.

173. Upon the Apprehension of any Person charged with any Crime or Offence which may be tried by the Judges of Police, it shall be lawful for the
- 5 Superintendent of Police, or the Lieutenant of Police upon Duty at the Time, to accept of Bail or Deposit that such Person shall appear for Trial before the Judge of Police at some Time and Place to be specified, and at all after Diets of Court, and to liberate the Person so apprehended upon Bail being found to an Amount not exceeding Twenty Pounds, or upon the Deposit of any Money or Article of
- 10 Value to the Amount of the Bail fixed ; and the Superintendent or Lieutenant of Police, if Deposit be accepted, shall enter the same in a Book to be kept for the Purpose, and grant an Acknowledgment for the Money or Article so deposited: Provided always, that the Superintendent or Lieutenant of Police may refuse, if he see Cause, to accept of Bail in any Shape ; and the Refusal to
- 15 accept Bail or Deposit, and detaining the Person so apprehended until the Case of such Person is tried in the usual Form, shall not subject the Superintendent or Lieutenant of Police to any Claim for Damages, wrongous Imprisonment, or Claim of any other Kind whatsoever.

Superintendent in certain Cases may accept of Bail or Deposit.

174. Every Person taken into Custody, and who shall be detained in Custody,
- 20 may be detained in the Police Office or Police Cells, and shall be taken before the Judge of Police not later than in the course of the first lawful Day after he shall be taken into Custody, such Day not being a Sacramental Fast Day, or a Day set apart for a General Fast ; and if the Nature of the Crime or Offence charged shall admit of its being competently tried before the Judge of
- 25 Police, it shall be lawful for him to grant Warrant to commit such Offender to the Police Cells or to Prison, when remanded for affording Time to find Bail, or for further Examination, or for Trial, such further Examination or Trial always taking place as soon as Circumstances shall permit, [and without any unnecessary Delay.

Persons in Custody to be taken before the Magistrates.

175. Any Person charged with any Crime or Offence which may be tried by the Judge of Police, and any Witness required to give Evidence in relation to the same, if within the Burgh, may, without any Warrant, be cited by any Constable; and it shall be deemed a legal Citation of such accused Person or
- 30 Witness, or of any accused Person or Witness beyond the Burgh for citing whom Warrant has been granted as herein-after provided, if the Citation (which, as given to the accused Person, shall state the Nature of the Charge) be delivered personally, or left at his Dwelling House, or, if such Person or Witness has no known Dwelling House, at the Hotel, Inn, Lodging House or other Place in which he eats and sleeps, or in the Shop, Warehouse, Counting-house, or other
- 40 Place of Business occupied by him, or in which he is employed, or, in the Case of a Master of or Seaman or Party employed in any Ship or Vessel, in the Hands of a Person on board thereof and connected therewith.

Authority to Officers to Cite Parties and Witnesses.

176. When any Person charged with having committed any Crime or Offence which may be tried by the Judges of Police, or when any Witness is beyond the
- 45 Burgh, the Judge of Police shall grant Warrant for apprehending or citing the Offender, and for citing, and failing Appearance after due Citation, for apprehending the Witness ; and any such Warrant shall be sufficient within Scotland for citing any Offender or Witness, and for conveying such Offender or Witness as shall be taken into Custody in Terms of the Warrant, to be dealt with
- 50 according to Law, if such Warrant is backed or endorsed by the Sheriff: Provided always, that the said Warrant shall be executed by a Constable.

Offenders removing from the Bounds of Police, how to be proceeded against.

Offenders failing to appear may be apprehended.

177. When any Person charged with any Crime or Offence which may be tried by the Judge of Police who has been duly cited, or who has been liberated on Bail or Deposit, fails to appear at the Time and Place appointed, or when any such Person having appeared fails to attend personally at any after Diet of Court, the Judge of Police may grant Warrant to take such Person into 5 and detain him in Custody till the next Diet of Court, or to commit him to Prison until he finds Bail to an Amount not exceeding Twenty Pounds, to appear at the next and all after Diets of Court; and when any Person suspending, advocating, appealing against, or bringing under Review any Order or Sentence of the Judge of Police, has found Caution for his after Appearance 10 as herein-after provided, the Judge of Police may, if such Sentence or Order be sustained, and such Person fails to appear, grant Warrant to apprehend and commit such Person to Prison until the Order or Sentence has been carried into full Execution.

Examination of Witnesses.

178. Where from the Absence of Witnesses for the Prosecutor in any Com- 15 plaint, or from any other Cause, it becomes necessary to adjourn the Diet, and where Witnesses for the Accused in such Prosecutions are in Attendance, it shall be lawful for the Judge of Police, at the Request of the accused Person, and if the Judge of Police in the Circumstances shall deem it proper, to take the Evidence of the Witnesses or the Accused before the Proof for the Prosecution has been led or concluded; but the Accused shall in all such Cases be 20 entitled to lead additional Evidence after the Prosecutor's Case has been concluded.

Penalty for Witnesses not appearing.

179. If any Person who has been duly cited as a Witness to appear before the Judge of Police fails to appear at the Time and Place for that Purpose 25 appointed, the Judge of Police may grant Warrant to take such Person into and detain him in Custody, or to commit him to Prison until he finds Security to an Amount not exceeding Twenty Pounds, to appear and give Evidence, and may also in open Court and in a summary Manner sentence such Person to a Penalty not exceeding Five Pounds, and if it appears that his Noncompliance 30 arose from a Desire on his Part to defeat the Ends of Justice, the Judge of Police may, instead of the said Penalty, sentence such Person to be imprisoned for a Period not exceeding Thirty Days: Provided, that Proof on Oath be made that he had been legally cited at least Twenty-four Hours before the Diet of Court. 35

Penalty for Witnesses refusing to give Evidence.

180. If any Person summoned as a Witness to give Evidence before the Judge of Police, and appearing, shall refuse to be sworn or examined upon Oath, or, in case of a Quaker or other Person privileged by Law, to be examined upon solemn Affirmation, after being sworn or having undertaken to affirm, shall refuse to give Evidence touching or concerning the Subject Matter of Complaint, the 40 Judge of Police may grant Warrant to commit to Prison such Person for any Period not exceeding Sixty Days.

Witnesses prevaricating may be punished summarily.

181. If any Person when under Examination on Oath or solemn Affirmation before the Judge of Police shall prevaricate or wilfully conceal the Truth, it shall be lawful to the Judge of Police, in open Court and in a summary Manner, 45 to adjudge the Person so offending to Imprisonment for any Term not exceeding Sixty Days, and the Sentence awarding such Imprisonment shall set forth the Nature of such Offence; and if any Person when under Examination on Oath or solemn Declaration as aforesaid shall wilfully or corruptly give false Evidence touching any Matter or Thing relating to the Case, or shall wilfully or cor- 50 ruptly swear or affirm any Matter or Thing which shall be false or untrue, although the Evidence be not recorded, every Person so offending, on being duly

duly convicted thereof, shall be subject and liable to such Pains and Penalties as by Law Persons guilty of wilful and corrupt Perjury are liable to; and it shall be lawful to the Judge of Police to remit such Person for Trial to a higher Criminal Tribunal, and for that Purpose to grant Warrant for his Imprisonment
5 until disposed of according to Law.

182. In any Action or Proceeding before the Judge of Police for the Recovery of Fine, Penalty, Forfeiture, or Expenses, the Person so found liable shall be sentenced to Imprisonment until the same is paid, but for Sums not exceeding Forty Shillings the Period of Imprisonment shall not exceed Thirty Days,
10 and in no Case shall the Period of Imprisonment for Nonpayment exceed Sixty Days.

In default of paying Fines Parties to be imprisoned.

183. It shall be lawful for the Judge of Police, in lieu of any Punishment by Imprisonment or Fine, to ordain any Offender to find Caution for good Behaviour or for keeping the Peace for any Period not exceeding Twelve
15 Months, and under a Penalty not exceeding Twenty Pounds, and to sentence the Person ordained to find such Caution to be imprisoned till Caution be found; but in no Case shall the Period of Imprisonment exceed Sixty Days.

Power to order Offenders to find Caution in lieu of Imprisonment or Fine

184. It shall be lawful for the Judge of Police, in addition to any Punish-
20 ment by Imprisonment or Fine, to ordain the Offender to find Caution as aforesaid from and after the Expiry of the Term of Imprisonment, or from and after the Payment of the Fine or pecuniary Penalty specified in the said Sentence, or from and after the Expiry of the Term of Imprisonment for Nonpayment thereof; and to sentence the Person ordained to find such Caution
25 to be further detained in Prison beyond the Expiry of the said Term of Imprisonment until such Caution be found; but in no Case shall the whole Period of Imprisonment, including the Period of Detention for not finding such Caution, exceed Ninety Days.

or to find Caution in addition to Imprisonment or Fine.

185. In all Cases where Sentence of Imprisonment is imposed by the Judge
30 of Police, a short Extract of the Charge and Sentence, certified by the Clerk of the Police Court or his Depute, shall be a sufficient Warrant of Commitment: Provided always, that any Person sentenced to Imprisonment in consequence of Nonpayment of any pecuniary Fine, Penalty, Forfeiture, or Expenses, or for Want of Caution being found, or otherwise, may be detained in the Police
35 Office or Police Cells for a reasonable Time, to allow of such Extract being made, such Time not exceeding in any case Twelve Hours.

Warrant of Commitment.

186. It shall be lawful for the Judge of Police, without the Necessity of any Complaint, to direct the Superintendent of Police or Inspector of Lighting and Cleaning to dismiss any Sergeant, Criminal Officer, Constable, Lamplighter,
40 Scavenger, or other inferior Officer whose Conduct in any Proceedings that shall form the Subject of Investigation before the Judge of Police shall, in the Opinion of such Judge, render such Officer unfit to be any longer retained in the Police Establishment, and such Officer shall be dismissed accordingly.

Constables may be dismissed by the Magistrate

187. No Order, Judgment, Record of Conviction or other Proceeding whatso-
45 ever, concerning any Prosecution instituted before the Judge of Police, shall be quashed or vacated for any Misnomer or Informality; and all Judgments and Sentences pronounced by the Judge of Police shall be final and conclusive, and not subject to Suspension, or Advocation, or Appeal, or any other Form of Review, or Stay of Execution, unless on the Ground of Corruption, Malice, or
50 Oppression, on the Part of such Judge, or of such Deviations in point of Form from the statutory Enactments as the Court of Review shall think took place wilfully, or of Incompetency, including Defect of Jurisdiction; and such Suspension,

Proceedings not to be void for Want of Form, and Judgments to be final.

sion, or Advocation, or Appeal, or Review or Stay of Execution must be presented to the High Court of Justiciary within Fourteen Days after the Date of the Sentence complained of.

No Suspension or Stay of Execution, &c., to prevent Payment of Penalties.

188. Such Suspension, Advocation, Appeal, Review or Stay of Execution shall not operate as a Suspension or Stay of Execution of any Order or Sentence of the Judge of Police requiring the Payment of any Penalty, unless on Consignment thereof in the Hands of the Clerk of Court, nor of any Order or Sentence of the Judge of Police ordaining Caution, or awarding Imprisonment, unless on Caution to the Satisfaction of the Judge of Police, to an Amount not exceeding Fifty Pounds, or if the Caution be ordered by the Judges of the High Court of Justiciary, or any One of them to the Amount so ordered, that, in the event of the Order or Sentence being sustained, the Person suspending, advocating, appealing, or bringing under Review as aforesaid shall appear before the Judge of Police on the first lawful Day thereafter, and the Order or Sentence of the Judge shall, in so far as the same has not been carried out, be then and there carried into full Execution; and in all Cases where any Order or Sentence of the Judge of Police is brought under Review, or where any Action is brought against the Procurator Fiscal, appointed or acting as herein authorized, or against any Officer or Constable, in consequence of anything done in the execution of their respective Duties, or of the Order or Sentence of the Judge, it shall be lawful for the Judge to authorize the Expenses incurred in the Proceedings in such Suspension, Advocation, Appeal, or Action to be defrayed out of the Police Assessment hereby authorized; Provided always, that at the first Meeting of the Magistrates and Council after the raising of such Suspension, Advocation, Appeal, or Action as aforesaid, the Procurator Fiscal shall make a Report of the Facts and Circumstances of the Prosecution on which any such Sentence or Order shall have been pronounced and brought under Review, or such Action raised, and the Magistrates and Council shall thereupon direct such Sentence so brought under Review or such Action to be defended or not, as to them shall seem proper; and if they shall direct such Sentence or Action not to be defended, then no Expenses incurred in defending the same subsequent to such General Meeting shall be defrayed out of the said Assessment.

Fines to be paid to the Clerk.

189. All Forfeitures, Penalties, Fines, and Expenses imposed by the Judges of Police, and recovered, shall be paid to the Clerk of Court, unless otherwise awarded, and shall be accounted for by him once every Month, or at such other Time or Times as the Magistrates and Council may direct to the Collector; and the Procurator Fiscal is hereby directed on the First Monday in every Month, to intimate to the Collector the Amount of the Forfeitures, Penalties, Fines, and Expenses imposed in the previous Month.

Application of Penalties.

190. The whole Forfeitures, Penalties, Fines, and Expenses imposed by the Judge of Police, and paid to the Clerk of Court, shall be applied in Payment of the Expenses incurred in alimentering Prisoners detained in Custody in the Police Office or Station Houses: Provided always, that if such Forfeitures, Penalties, Fines, and Expenses shall not be sufficient for these Purposes, whatsoever further Sum may be required shall be paid from the Police Assessment; and if such Forfeitures, Penalties, Fines, and Expenses shall be more than sufficient for these Purposes, the Surplus shall be applied to the same Purposes as the Police Assessment.

For Recovery of forfeited Bail Bonds and Bonds of Caution.

191. When any Person shall be apprehended, and afterwards liberated on finding Bail for his Appearance, and shall fail to appear, or when any Person who shall have found Caution for good Behaviour, or for keeping the Peace as aforesaid, shall commit a new Offence inferring Forfeiture of such Caution, or when

when any Person suspending, advocating, or appealing, or otherwise bringing under Review any Sentence pronounced against him, shall have found Caution for his after Appearance as herein-before provided, and shall fail so to appear it shall be lawful for the Judges of Police to declare the Sum contained in the

5 Bail Bond or Bond of Caution to be forfeited, and to order the Cautioner to be summoned to make Payment thereof to the Clerk within Six Days after the Date of such Summons, and in default of such Payment, after the Lapse of such Period to grant Warrant for apprehending and imprisoning the Cautioner till the said Sum be paid, but which Period of Imprisonment shall not exceed Thirty

10 Days from the Time of Incarceration, and after such Imprisonment no further Procedure against the Cautioner shall be competent on the Bond; and when any Money or other Article shall be deposited by any Person as a Security for his Appearance, and such Person shall fail to appear, it shall be competent to the Judge of Police to declare such Deposit to be forfeited, and if it be Money it shall

15 be forthwith ordered by the Judge of Police to be paid to the Clerk; and if it be not Money such Article so deposited shall be ordered by the Judge of Police to be sold by Public Auction, and the free Proceeds shall be paid to the Clerk, and all Sums paid to the Clerk as aforesaid shall be accounted for by him along with the Forfeitures, Penalties, Fines, and Expenses to the Collector,

20 and applied in the same Way and Manner as Forfeitures, Penalties, Fines, and Expenses are directed to be applied.

192. Any Bail Bond or Bond of Caution, the Cautioner in which is unable or shall declare he is unable to subscribe his Name, shall be valid and effectual if such Cautioner shall adhibit to such Bond his Mark in Presence of Two

25 Witnesses, who shall subscribe the said Bond in testimony thereof.

193. Wherever any Act, Decision, Determination, Declaration, or Deliverance of any Sheriff or Magistrate, or Preses of a Meeting, or other Person whatever, is by this Act declared to be final, the same shall not be subject to be set aside or reviewed or affected by any Court or Judicature upon any Ground or in any

30 Manner of Way whatever.

194. No Jurisdiction hereby conferred shall be held to exclude the Jurisdiction of the Sheriff or Court of Guild where the Case shall in the first instance have been brought before or taken up by the Sheriff or Court of Guild.

Cautioners in Bonds.

Where any Act or Decision, &c., declared final, the same shall not be reviewable.

Jurisdiction of Sheriffs and Courts of Guild to be preserved.

35 VII.—*Promotion of the Public Health.*

195. The Magistrates and Council shall be the Local Authority within the Burgh for the Purposes of "The Nuisances Removal (Scotland) Act, 1856," anything in the said Act or any Regulation or Order to the contrary, notwithstanding.

40 196. The Power of Entry given by the Ninth Clause of the said last mentioned Act to the Local Authority or Inspector shall include the Superintendent of Police and the Medical Officer of the City, or such other Officers as the Local Authority may desire to accompany them to inspect any private Premises where the Local Authority or Inspector of Nuisances have reasonable Grounds

45 for believing that Nuisance exists.

197. The Eleventh Clause of the said last mentioned Act is hereby amended to this Extent, that the Decree therein mentioned shall also, if the Case requires it, ordain the Owner of any inhabited House, Building, or Part thereof which has been rendered unwholesome or unfit for Human Habitation by and through

50 its being overcrowded, as the Author of such Nuisance, to limit the Number of separate Dwellings into which such common Tenement or Part thereof may be

Magistrates and Council to be Local Authority.

Power of Entry to include Superintendent of Police, Medical Officer, and others.

Decree to prevent overcrowding of common Tenements, and Watercloset Accommodation may be ordered.

divided, or let to or for the Use of separate Families, and the Number of Persons who may be accommodated in such common Tenements, or such Parts thereof which may be let to or for the Use of separate Families; and the Word "Nuisances" under the said Act shall include "any overcrowding of an inhabited House, Building, common Tenement, or Part thereof insufficient in Size for the Number of Persons inhabiting the same;" and the said Decree shall also, if the Case requires it, ordain the Owner, as the Author of the Nuisance, to provide sufficient Watercloset Accommodation (in lieu of Privy Accommodation) for the separate Use of the Sexes of the Inmates of such common Tenement or Parts thereof.

Sheriff may supersede Consideration of Complaint to permit regular Drainage Works to be carried out under Police Acts.

198. The Forty-third Section of the said last-mentioned Act is hereby amended to this Extent, that it shall be lawful to the Sheriff to supersede the Consideration, for such Time as he shall see proper, of any Complaint directed under the said Forty-third Section of the said Act, against the Magistrates and Council, if he shall deem such just, to enable the Magistrates and Council to carry out a regular System of Drainage, in order the better to remove any Nuisance for the Removal of which Drainage Works are necessary.

Sheriff may grant Warrant for Recovery of Penalties and Expenses, and for Imprisonment if not paid.

199. The Forty-fourth Section of the said last-mentioned Act is hereby amended to this Extent, that the Sheriff may, without Prejudice to any other Remedy under the said Act for the Recovery of Penalties, grant Warrant for the Recovery of the Penalties and Expenses decerned for, and, failing Payment thereof by the Party convicted within Eight Days after Conviction, for his Imprisonment for a Period, in the Discretion of the Sheriff not exceeding Sixty Days.

Offensive Trades to be subject to Regulations.

200. The Business of a Blood Boiler, Bone Boiler, Tanner, Slaughterer of Cattle, Horses, or Animals of any Description, Soap Boiler, Tallow Melter, Tripe Boiler, or other noxious or offensive Business, Trade, or Manufacture, shall not be newly established in any Building or Place within the Burgh, or within Two hundred Yards thereof, without the Consent of the Magistrates and Council; and any Person contravening this Enactment shall be liable for each Offence to a Penalty of Fifty Pounds, and a further Penalty of Forty Shillings for each Day during which the Offence is continued; and the Magistrates and Council may from Time to Time make such Byelaws with respect to any such Businesses so newly established within the Burgh as they may think necessary and in order to prevent or diminish the noxious or injurious Effect thereof.

Power to remove Persons labouring under infectious Disease.

201. With a view to prevent the spreading of infectious or contagious Disease, be it enacted, that whenever the Medical Officer of Health shall be satisfied that any Person labouring under such Disease should be removed to the Royal Infirmary or other Hospital, he shall cause such Person to be removed in such Way and Manner as he may prescribe; and whatever Expense may be so incurred shall form a proper Charge against the Police Funds, reserving to the Magistrates and Council their Claim against any Parties liable therefor.

Premises within Burgh not to be used as Infirmary or Hospital without Licence.

202. No Houses or other Premises within the Burgh shall be used or occupied as an Infirmary or Hospital for the Treatment of Persons affected with Fever or other Disease until a Licence shall have been obtained therefor from the Magistrates; and no such Licence shall be granted until the same shall have been certified to be suitable for such a Purpose by the Medical Officer of Health, or some other duly qualified Medical Practitioner appointed by the Magistrates to inspect and report on the same.

Removal of Corpses to Funerary.

203. Whenever any Person shall die in such Circumstances as that the Corpse, if kept would remain in an occupied Room or Apartment, or so as to be offensive,

sive or prejudicial to the Health of Persons in the same or any adjoining Tenement, the Medical Officer of Health may cause the Corpse to be removed to a Funeratory to be provided by the Magistrates and Council for the Purpose; and the Expense of providing such Funeratory, and of removing, and, if necessary, of interring such Corpse, shall form a Charge against the Police Funds, reserving to the Magistrates and Council, in the Case of such Interment being made by them, their Claim against any Parties liable therefor.

204. Whatever by the said last-mentioned Act is authorized to be done by the Medical Officer of the Parish may be done by the Medical Officer of Health, or other duly qualified Medical Practitioner appointed by the Magistrates and Council, whose Actings in the Execution of the Provisions of the said Act shall, in all respects, receive the same Effect as if done or performed by the Medical Officer of the Parish.

The Nuisances Removal Act.

MISCELLANEOUS PROVISIONS.

205. The Magistrates and Council shall, and they are hereby required to take such Security from the Treasurer or Collector to be appointed by them for the due Execution of his Office, and for his faithful accounting for all Monies received by him in virtue of his Office as to the Magistrates and Council shall seem meet; and such Security shall be taken from the Treasurer or Collector before he shall enter upon the Execution of his Office.

Security to be taken from Collector.

206. In case any Treasurer or Collector appointed by the Magistrates and Council shall become Insolvent, and the Sum or Sums chargeable against him shall not have been paid by his Cautioners or Sureties, then, and in every such Case the Sum deficient shall be chargeable against and form a Burden upon the next or subsequent annual Assessments, and shall be taken into account in fixing the Rate of such Assessment or Assessments.

On Insolvency of Collector, deficiency may be assessed.

207. So much of "The Edinburgh Police Act, 1848," as is included in the Sections thereof numbered respectively 38 to 41 both inclusive, 43 to 56 both inclusive, 59 to 62 both inclusive, 64, 66, 67, and so much of 81 as refers to the Superintendent of Police and the Inspector of Lighting and Cleansing, and also Sections 82 to 91 both inclusive, 94 to 102 both inclusive, 106 to 112 both inclusive, 125, 126, 145, 149, 152, 155, 159, 166, 167, 172, 173, 175, 181, 196, 203 to 209, both inclusive, 215, 222, 223, 227, 229, 254, and also Schedules C, D., and E., appended to the said Act, are hereby repealed; and so much of "The Edinburgh Police Amendment Act, 1854," as is included in the Sections thereof numbered respectively 43, 49, 50, 58, and 59, are also hereby repealed: Provided always, that nothing herein contained shall prejudice the Right of the Magistrates and Council to recover all Arrears of Police and other Assessments imposed for the Year from Whitsunday 1866 to Whitsunday 1867 and preceding Years in the Way and Manner prescribed by "The Edinburgh Police Act, 1848," "The Edinburgh Police Amendment Act, 1854," and "The Edinburgh Municipality Extension Act, 1856" or by the several Acts under which such Assessments were respectively imposed.

Certain Provisions of Local Acts repealed.

208. Nothing herein contained shall be held to repeal or affect the Provisions of "The Edinburgh Police Act, 1848," "The Edinburgh Police Amendment Act, 1854," "The Edinburgh Municipality Extension Act, 1856," the Act 23 & 24 Vict., Cap. 50. and the Act 24 & 25 Vict., Cap. 27., except in so far only as herein expressly provided, or as shall be necessary to give effect to the Provisions hereof; and the Provisions and Enactments herein contained shall extend, and be construed, deemed, and taken to extend to and form Part of the above recited Acts, in the same Manner, and as fully, and to all Intents and

Saving Provision of local Acts.

Purposes, as if the said Provisions and Enactments were set forth in and incorporated with the said recited Acts.

Interpretation
Clause.

209. Except as herein otherwise expressly provided, the Words and Expressions herein used shall have and bear the Meanings severally assigned to them in "The Edinburgh Police Act, 1848," "The Edinburgh Police Amendment 5
" Act, 1854," and "The Edinburgh Municipality Extension Act, 1856:"

The Words "the Burgh" shall mean and include the District within the Boundaries to which "The Edinburgh Police Act, 1848," as altered or extended by "The Edinburgh Police Amendment Act, 1854," and "The 10
" Edinburgh Municipality Extension Act, 1856," apply :

The Words "the Magistrates and Council," and "the Commissioners," shall mean the Magistrates and Council of the City of Edinburgh; and wherever the Words "the Commissioners" are used they shall be read as if the Words the "Magistrates and Council" had been used instead thereof :

The Words "the Judge of Police," or "the Judge," shall mean the Judge 15
sitting and officiating in the Police Court under the Provisions hereof and of "The Edinburgh Police Act, 1848," "The Edinburgh Police
" Amendment Act, 1854," and "The Edinburgh Municipality Extension
" Act, 1856:"

The Words "Medical Officer of Health," or "Medical Officer," shall mean the 20
Surgeon or Medical Practitioner appointed by the Magistrates and Council, under the Provisions of "The Edinburgh Police Act, 1848," and of "The
" Edinburgh Municipality Extension Act, 1856," or any other Local or
General Act in force within the Burgh :

The Words "the Burgh Engineer" herein used shall mean "the Superin- 25
tendent of Streets and Buildings," and also the "Surveyor" appointed by or acting under the Commissioners of Police, or Magistrates and Council, under the Provisions of "The Edinburgh Police Act, 1848," "The Edin-
" burgh Police Amendment Act, 1854," and "The Edinburgh Municipality
" Extension Act, 1856," and the adopted Clauses of the said "General 30
" Police and Improvement (Scotland) Act, 1862;" and the said Officer shall, for the Purposes of the said Acts, be termed the "Burgh Engineer:"

The Word "Constable" shall mean and include the Superintendent of Police, and all Lieutenants, Sergeants, Constables, and other Officers of Police appointed in virtue of Section 74 of "The Edinburgh Police Act, 1848:" 35

The Word "Person," and Words applying to any Person or Individual, shall apply to and include Companies and Corporations:

The Word "Owner" shall include Joint Owner, Fiar, Life Renter, Feuair, or other Person in the actual Possession or Receipt of the Rents of Tene- 40
ments, Lands, and Heritages of every Tenure or Description, and the Factor, Agent, or Commissioner of such Persons, or any of them, or any other Person who shall intromit with or draw the Rents :

The Word "Occupier" shall include Tenant and Sub-tenant, and the actual Possessor of any Lands or Premises, but shall not include a Lodger or Person in the Occupation as Tenant of a furnished House, let for a less 45
Period than One Year, but shall include the Person by whom such furnished House is so let :

The Word "Lands," and the Word "Premises," shall include all Lands, Springs, Rights of Servitude, Dwelling Houses, Shops, Warehouses, Vaults, Cellars, Stables, Breweries, Manufactories, Mills, and the fixed or attached 50
Machinery therein, Yards, Places, and other Heritages specified or included in the Act of the Seventeenth and Eighteenth Victoria, Chapter Ninety-one, intituled "An Act for the Valuation of Lands and Heritages in Scotland :"

The

The Expression "Private Improvement Assessment" shall mean any Assessment or Charge on any Person for Private Improvement Expenses under the Provisions hereof, or of any Local or General Act in force within the Burgh :

- 5 The Expression "District Assessment" shall mean any Assessment or Charge (other than a "Private Improvement Assessment") which is confined only to a Portion or District of the Burgh :

10 The Word "Broker" or "Brokers" shall extend to and include any Person or Persons dealing in Second-hand Goods or Articles, or in Woollen Yarn or Waste, or in other unwrought Woollen Materials, or in old Metals, Bones, or Rags.

SCHEDULE (A.)

15 Attestation by Collector, Application to Sheriff, and Warrant, to be written at the End of each Volume of the Roll or Book of Assessment.

(1.) *Attestation by Collector.*

I *A.B.* Collector of Police Assessments and also Collector of the Assessments for [Prisons, Registration of Births, Deaths, and Marriages, Registration of Voters, Militia Purposes, Valuation of Lands and Heritages, &c.,
20 *as the Case may be*] for the Burgh of Edinburgh, do hereby certify, That this is the [First, Second or Third, *as the Case may be*] Volume of the Books of Assessments according to which the Police Assessment and other Assessments [and Rates, *as the Case may be*] above specified are leviable from the Persons and others therein named for the Year from _____ to _____
25 that the said Assessments [and Rates, *as the Case may be*] became due and payable as follows, viz. [*Here specify the Dates on which the several Assessments and Rates respectively become payable*], that certain of the Persons and others assessed in the said Book have failed to pay the said Assessments [and Rates, *as the Case may be*] or a Portion thereof notwithstanding of the same having been
30 demaaded from them by Notices from me, delivered to or left for them on the Premises assessed, or at the Dwelling Houses or Places of Business of such Persons; and that the Persons and others named in this Volume who have so failed to pay the said Assessments [and Rates, *as the Case may be*] or a Portion thereof are those against whose Names respectively the Charges in this Volume
35 remain unpaid or otherwise undischarged at this Date.

A.B., Collector.

Edinburgh, [*Date.*]

(2.) *Application to Sheriff.*

To the Honourable the Sheriff of the County of Mid-Lothian or his Substitute.
40 The Petition of *A.B.*, Collector of Police Assessments, and also Collector of the Assessments for [Prisons, Registration of Births, Deaths, and Marriages, Registration of Voters, Militia Purposes, Valuation of Lands and Heritages, &c. *as the Case may be*], for the Burgh of Edinburgh ;

Humbly sheweth,

45 That by the Acts of Parliament [*here refer to them*] certain Police Assessments and other Assessments [and Rates] are authorized to be levied in the Burgh of Edinburgh.

That in terms of said Act [*or Acts*] Assessment Books for levying the said Assessments [and Rates] for the Year from _____ to _____
[205.] H 3 _____ were

were made up and delivered to the Petitioner, in order to his levying and collecting the Sums set opposite the Names of the Persons and others respectively therein entered, of which Assessment Books this is the Volume.

That the said Assessments [and Rates] became due and payable as follow
[*here specify the Dates on which the several Assessments and Rates become payable*]. 5

That by the Attestation of the Petitioner hereunto prefixed it appears that certain of the Persons so assessed have failed to pay the said Assessments [and Rates or a Portion thereof, notwithstanding of the same having been demanded from them by Notices from the Petitioner, delivered to or left for them on the Premises assessed, or at their Dwelling Houses or Places of Business, and 10 that the Persons named in this Volume who have so failed to pay are those against whose Names respectively the Charges in this Volume remain unpaid or otherwise undischarged in whole or in part at the Date of the said Attestation.

That the said Persons who have failed to pay the Police Assessments charged 15 against them or a Portion thereof, on or before the First Day of March, have incurred in addition a Penalty of One Penny upon each Pound of the Rental of the Premises in respect of which they are assessed, in Terms of the said Act [*here refer to it*].

That in these Circumstances it becomes necessary to apply to your Lordship 20 for Warrant to the following Effect:—

May it therefore please your Lordship to grant summary Warrant against the Persons who have failed in Payment as aforesaid for Recovery of the said Assessments [and Rates] so remaining unpaid in whole or in part, and Penalty aforesaid, and to authorize Messengers-at-Arms or Officers of Court 25 to enter the House, Place of Business, or other Premises of the Persons who have failed in Payment as aforesaid, and—upon Presentment, if asked only, of the said Warrant or a Copy thereof certified by the Sheriff Clerk of the County of Mid-Lothian, along with the Receipts of the Collector for the several Assessments [and Rates] wholly or partly in Arrear by such Persons 30 respectively—and failing Payment being immediately made of the Assessments [and Rates] in Arrear and Penalty aforesaid, together with the Expense of obtaining said Warrant, and the Fees and Charges of the Messenger or Officer,—to seize, take Possession of, and if such Messenger or 35 Officer shall think proper, to remove so much of the Goods and Effects therein as shall appear to such Messenger or Officer to be sufficient for satisfying out of the Proceeds of the Sale thereof the said Assessments [and Rates] remaining unpaid, and Penalty, with the Costs and Charges incurred or to be incurred in obtaining and carrying into Execution the Warrant which may be granted hereon against said Persons respectively; and for 40 these Purposes to authorize the said Messenger or Officer to open shut and lockfast Places; and further, to authorize the said Messenger or Officer, if the said Assessments [and Rates] and Penalty, together with said Costs and Charges, shall not be paid within Three Days next after Seizure is made as aforesaid to sell the said Goods and Effects so seized by Public Roup, either 45 on the Premises in which the same were so seized, or at the Market Cross of the said Burgh, or in such other Place as your Lordship may appoint, returning the Surplus of the Price, if any be, and also any of such Goods and Effects as it may be found unnecessary to sell, after Payment of the said Assessments [and Rates] and Penalty, together with the Costs and 50 Charges incurred in obtaining and carrying the said Warrant into Execution, and of such Sale, to the Owner of the said Goods and Effects.

(Signed) A.B., Collector.

(3.) *Warrant.*

Edinburgh, (*Date.*) The Sheriff [*or Sheriff Substitute, as the Case may be,*]
having considered the foregoing Application and Attestation, grants Warrant as
craved.

5

(Signed) *C.D.*

Whitehall,
6th June 1867.

(L.S.) (Signed) GATHORNE HARDY.

Edinburgh Provisional Order Confirmation.

A

B I L L

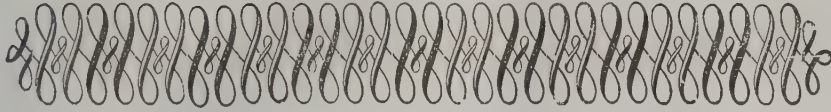
To confirm a Provisional Order under
the General Police and Improvement
(Scotland) Act, 1862, relating to the
City of Edinburgh.

*(Prepared and brought in by
Mr. Secretary Gathorne Hardy and
Sir Graham Montgomery.)*

*Ordered, by The House of Commons, to be Printed,
21 June 1867.*

[Bill 205]

Under 8 oz.



A

B I L L

TO

Provide for the Education of the poorer Classes in
England and Wales.

WHEREAS it is expedient to make Provision for the Preamble.
Education of the Children of the poorer Classes in
England and Wales, and to provide Funds for that
Purpose :

5 Be it therefore enacted by the Queen's most Excellent Majesty,
by and with the Advice and Consent of the Lords Spiritual and
Temporal, and Commons, in this present Parliament assembled, and
by the Authority of the same, as follows ; (that is to say,)

Preliminary.

10 1. This Act may be cited for all Purposes as "The Education Short Title
Act, 1867." of Act.

2. This Act shall not extend to Scotland or Ireland. Application
of Act.

3. The following Terms shall in this Act, unless the Context Interpretation
otherwise requires, have the Meanings hereby assigned to them ; of
15 (that is to say,) Terms :

The Term "Person" shall include a Corporation : "Person:"

The Term "Parish" shall mean a Place for which a separate "Parish:"

Poor Rate is or can be made :

[Bill 111.]

A

The

"Charity Commissioners:"	The Term "The Charity Commissioners" shall mean the Charity Commissioners for England and Wales :	
"Managers:"	The Term "Managers" shall include all Persons who have the Management of any School of the Description to which this Act applies, whether the legal Interest in the Schoolhouse is 5 or is not vested in them :	
"Teacher:"	The Term "Teacher" shall include Assistant Teacher, Pupil Teacher, and every other Person who forms Part of the Educational Staff of a School :	
"Schoolhouse:"	The Term "Schoolhouse" shall include the Teacher's Dwelling 10 House (if any) and all other Premises belonging to the School or under the Control of the Managers thereof :	
"Parent:"	The Term "Parent" shall include Guardian and every Person who is liable to maintain or has the actual Custody of any Child :	
"Her Majesty's Inspectors."	The Term "Her Majesty's Inspectors" shall mean the Persons 15 appointed by the Lords of the Committee of the Privy Council on Education for the Inspection of Schools.	

PART I.

ADOPTION OF ACT.

Places where Act may be adopted. 4. This Act may in manner herein-after mentioned be adopted 20 in the Places set forth in the First Column of the First Schedule hereto, which Schedule, together with the Explanation thereof, shall be of the same Force as if it were enacted in the Body of this Act, and the Places in which this Act may be adopted are herein-after included under the Term District. 25

Mode of adopting Act. 5. With respect to the Mode of adopting this Act, the following Enactment shall be made ; (that is to say,) 25

1. The Adoption of this Act in any District shall be effected by a Resolution in favour of adopting it passed by a Majority of the Persons qualified to vote who vote on the Question : 30
2. The Persons qualified to vote shall be—
 - (a.) In the City of London every Person who is rated to the Consolidated Rate :
 - (b.) In a Borough where the Mayor is the Returning Officer every Person whose Name is on the Burgess Roll for 35 the Time being in force :
 - (c.) In any other District all Persons who are Occupiers of any Property in such District, and are entered as such Occupiers in the Rate Book for the Time being in force : 40

And such Persons are in this Act referred to as the Electors, and each Elector shall have One Vote only :

3. In

3. In each District the Officer named opposite to that Description of District in the Second Column of the First Schedule hereto, and who is herein-after referred to as the Returning Officer, shall, upon a written Application made to him, signed by not less than One in every Hundred of the Electors in such District, proceed to call a Meeting, so as to ascertain the Wish of the District respecting the Adoption of this Act :
4. The Rules contained in the Second Schedule hereto, with respect to the Proceedings for calling and holding the Meeting, having a Poll, taking the Votes by Voting Papers, and ascertaining the Result, and the other Matters therein mentioned, shall be observed in the same Manner as if they were enacted in the Body of this Act :
5. If the final Result declared by the Chairman of the Meeting is that a Majority of Votes have been given against the Resolution to adopt this Act, no Application to call a Meeting to consider that Question in the same District shall be complied with until after the Expiration of One Year from the Declaration of such Result :
6. If the final Result so declared is that a Majority of Votes has been given in favour of the Resolution, the Resolution shall be deemed to have been passed by and to be the Act of that District, and the Date of the Declaration of the final Result shall be deemed to be the Date of the passing of the Resolution.
6. Whenever any Resolution adopting the Act has been passed in any District, this Act shall, at the Expiration of *Two Months* from the Date of the passing of such Resolution, have the Force of Law within such District; and a Place in which this Act is so in force is in this Act referred to as a School District; and the Expiration of such Period of *Two Months* is in this Act referred to as the Date of the Constitution of the School District.
7. Any Elector who disputes the Validity of the Resolution for the Adoption of this Act may appeal, within Fourteen Days after the Date of the passing of the Resolution, to Her Majesty in Council, by a Petition setting forth the Grounds on which he disputes the Validity of such Resolution; and Her Majesty on such Appeal may direct Inquiry to be made into the Circumstances of the Case, and by Order in Council may make such Order thereon as to Her Majesty may seem requisite to determine the Questions arising on such Appeal.

When Resolution passed, Act to be in force.

Appeal against Validity of Resolution.

Limit to
Objections
to Mode of
adopting the
Act.

8. After the Expiration of Two Months from the Date of the Constitution of a School District, this Act shall be presumed to have been duly adopted in such District, and no Objection to the Adoption thereof, or to any Proceedings taken for that Purpose, shall be entertained in any legal Proceeding whatever.

5

PART II.

CONSTITUTION OF SCHOOL COMMITTEE.

Act to be
carried out
by a School
Committee.

9. Upon the Adoption of this Act, and the Constitution of a School District, the Duty of carrying this Act into execution in the District shall be vested in a Committee, herein-after called the School Committee, elected as herein-after mentioned.

Constitution
of School
Committee.

10. There shall be enacted with respect to the Constitution of the School Committee in each District the Provisions following; (that is to say,)

1. The School Committee shall consist of Six, Nine, or Twelve elected Members, according as may be determined by a Resolution passed at the same Time and in the same Manner as the Resolution for the Adoption of this Act; within the above Limits, the Number may be altered from Time to Time by another Resolution passed in the same Manner as a Resolution for the Adoption of this Act, but no Resolution respecting the Number of the School Committee shall be the Subject of an Appeal to Her Majesty in Council :
2. The School Committee shall be a Body Corporate, by the Name of the School Committee of the District to which it belongs, having a perpetual Succession and a Common Seal, with Power to acquire and hold Lands for the Purposes of this Act, without any Licence in Mortmain :
3. The School Committee shall be elected by the following Persons; that is to say,
 - (a.) In the City of London, by the Common Council, either wholly or partly out of their own Body :
 - (b.) In a Borough where the Mayor is the Returning Officer, by the Town Council, either wholly or partly out of their own Body :
 - (c.) In any other Place, by the Electors as defined for the Purpose of the Adoption of this Act :

4. Every

4. Every Person shall be qualified to be a Member of the School Committee who is rated to the Poor Rate within the District of such Committee on a rateable Value of not less than Twenty Pounds, or, in Cases where the Committee is elected by a Council, is a Member of such Council :
5. The Election of the Members of a School Committee shall be conducted in the Manner and according to the Regulations laid down in the Second Schedule to this Act :
6. No Act or Proceeding of the School Committee shall be questioned on account of any Vacancy or Vacancies in their Body :
7. No Defect in the Qualification or Election of any Person or Persons acting as Members or Member of the School Committee shall be deemed to vitiate any Proceedings of such Committee in which he or they have taken part, in Cases where the Majority of Members Parties to such Proceedings were duly entitled to act :
8. Any Minute made of Proceedings at Meetings of the School Committee, if signed by any Person purporting to be the Chairman of the Committee, either at the Meeting of the Committee at which such Proceedings took place, or at the next ensuing Meeting of the Committee, shall be receivable in Evidence in all legal Proceedings without further Proof ; and, until the contrary is proved, every Meeting of the School Committee, in respect of the Proceedings of which Minutes have been so made, shall be deemed to have been duly convened and held, and all the Members thereof to have been duly qualified :
9. The Members of a School Committee may apply any Monies in their Hands for the Purpose of indemnifying themselves against any Law Costs or Damages which they may incur in or in consequence of the Execution of the Powers granted to them :
10. The Rules contained in the Third Schedule hereto with respect to the Proceedings of School Committees, and the other Matters therein contained, shall be observed in the same Manner as if such Rules were enacted in the Body of this Act.

11. The School Committee may from Time to Time make Regulations, not being inconsistent with any Provision of this Act, respecting Schools connected with them under this Act, and may from Time to Time revoke and alter the same. These Regulations (in this Act referred to as Local Regulations) may be removed by Writ of Certiorari into any of Her Majesty's Superior Courts of Westminster.

Committee
may make
Local Regu-
lations.

Committee
may provide
Offices.

12. The School Committee may provide, fit up, and maintain proper Offices for the Transaction of their Business.

Appointment of Officers.

Appoint-
ment of
Officers.

13. The School Committee shall appoint a Chief Clerk and a Treasurer and One or more Inspectors, and such other Clerks and 5 Servants as may be necessary, and may assign them such Salaries or Remuneration as they think reasonable, and may from Time to Time remove any of such Officers; but no such Appointment shall be made, except at the First Meeting of the Committee, unless Notice in Writing has been sent to every Member of the Committee. 10

Duties of
Clerk.

14. The Chief Clerk of every School Committee shall in Person, or by such Deputy as may be allowed by the Committee, attend all Meetings of the Committee, and shall conduct the Correspondence thereof, and enter and keep, in Books to be provided for the Purpose, Notes, Minutes, or Copies, as the Case may require, of the 15 Meetings, Acts, Orders, Resolutions, Proceedings, and Correspondence of such Committee, and shall keep all Books, Papers, and Documents committed to his Charge, and shall perform all such other Duties as the Committee may direct.

Duties of
Treasurer.

15. The Treasurer of every School Committee shall receive, and 20 hold to the Account of such Committee, all Monies paid to or for the Use of such Committee, and shall make Payments thereout under Orders of such Committee, and shall, once in every Three Months, or oftener if required by the Committee, make up an Account of all Monies received and paid by him, and deliver the 25 same to the Chief Clerk of the Committee.

Duties of
Inspectors.

16. The Inspector of every School Committee (in this Act referred to as a Local Inspector) shall inspect and examine the Schools under the Jurisdiction of the Committee, and report thereon to the Committee, and shall perform all such other Duties as are imposed by this Act, or as the Committee may direct.

PART III.

UNION OF EXISTING SCHOOLS WITH THE COMMITTEE.

Managers of
existing
Schools may
apply to be
admitted
into Union.

17. Where a School Committee has been elected, the Managers 35 of any School in the District at which no Payment, or a Payment not exceeding *Ninepence* per Week, is taken from each Scholar, may make Application for their School to be received into Union with the School Committee.

The

The Application shall be made in Writing signed by the Applicants, and sent to the Chief Clerk of the Committee, and shall specify whether they desire the School to be received into Union as a School at which no Payments are to be made by the Scholars
 5 (in this Act referred to as a "Free School"), or as a School at which Payments are to be made by the Scholars (in this Act referred to as an "Aided School"); it shall also state all other Matters which may be necessary to enable the School Committee to decide on the Application.

- 10 **18.** The School Committee may, by Resolution, either admit the School into Union in accordance with the Application, or refuse altogether to admit it, or admit it only on certain Conditions. These Conditions (in this Act referred to as "Special Conditions") must not be inconsistent with this Act, but may require the School
 15 to be a Free School or to be an Aided School. If the Committee refuse or impose Conditions as aforesaid, they shall send to the Applicants, in Writing, their Reasons for such Refusal and Conditions.

School Committee may grant or refuse Application.

- 20 **19.** No School shall be refused Admission into Union with a School Committee on the Ground that, in addition to ordinary Instruction in Reading, Writing, and Arithmetic, Instruction is also given in some Trade, Business, or Manual Occupation, or that the School is provided for Children employed in a Factory, or in Service, or in some Description of Labour.

School not to be refused Admission because a Factory School, or a Trade is taught.

- 25 **20.** If the School Committee refuse to admit into Union any School altogether, or admit it only on Special Conditions which are inconsistent with this Act, or to which the Applicants object, the Applicants may appeal by Petition to Her Majesty in Council. The Petition must be signed by the Applicants, and must state the
 30 Grounds of their Appeal, and their Objections (if any) to the Special Conditions. Her Majesty may direct such Steps to be taken as to Her Majesty seem proper for ascertaining the Merits of the Case, and may, by Order in Council, direct that the School Committee shall admit the School of the Applicants into Union,
 35 either with or without any Special Conditions, or give such other Directions as to Her Majesty seem just, and every such Order shall be binding on all Parties.

Managers may appeal to Queen in Council.

- 21.** In the Case of a Refusal to admit any School into Union, whether confirmed by Her Majesty in Council or otherwise, no new
 40 Application on behalf of the same School shall be entertained by the Committee until the Expiration of *Twelve* Months from the

Application, if unsuccessful, not to be renewed before End of Twelve Months.

Date of such Refusal, unless the Ground of Objection which was the Cause of such Refusal is removed.

School to be
in Union
from Day
named in
Resolution
or Order in
Council.

22. If the School Committee resolve, or if Her Majesty in Council directs, that a School be admitted into Union with the School Committee, such School shall, after the Day named in the Resolution or in the Order in Council, as the Case may be, (or, if no Day is named, after the Date of the Resolution or Order,) be in Union with the School Committee, and entitled to the pecuniary Assistance mentioned in this Act, and a School so in Union is in this Act referred to as a United School. 10

Conditions
of Union of
United
School.

23. The following Conditions (in this Act referred to as the General Conditions) shall be observed in every United School; (that is to say,)

1. The School shall be open at all Times to the Inspection both of any of Her Majesty's Inspectors and of any of the Local Inspectors of the District, and every Facility shall be given for enabling the Local Inspector to examine the Scholars, and conduct any Inspection, under the Provisions of this Act :
2. The Discipline and Instruction at the School shall be in all respects conformable to the Rules and Conditions prescribed in those Minutes of the Lords of the Committee of the Privy Council on Education in force for the Time being, which have been duly laid before Parliament (which Minutes are herein-after referred to as the Government Code), so far as they apply to any School of the Character and Denomination : Provided always, that no Child attending the School, with whatsoever Church or Religious Denomination such School may be connected, shall be required, when attending the School, to learn any Religious Doctrine, Catechism, or Formula- lary which has been objected to by some Writing sent to the Managers or Teachers of the School, or One of them, signed by the Parent of such Child, and if the Signature is only a Mark, with the Mark attested by a Witness; and no Child attending the School shall be required, as an Attendant of such School, to attend or to abstain from attending any particular Sunday School or any particular Place of Religious Worship, and no Child shall be refused Admission into the School on account of any such Objection of the Parent as aforesaid, or on account of the Child's Attendance or Non-attendance at any particular Sunday School or any particular Place of Religious Worship :

3. The

3. The Qualifications of the Teachers shall be such as are prescribed by the Government Code, or as may in any particular Case be allowed by the School Committee :

4. The School shall be open during not less than *Forty* Weeks in every Year, on *Five* Days in each Week, exclusive of Sundays, and for not less than *Two* Hours, between the Hours of *Nine* in the Morning and *Half-past Twelve* in the Afternoon on each Day, and for not less than *Two* Hours between the Hours of *One* and *Five* in the Afternoon on each Day :

5. The Special Conditions imposed under the Provisions of this Act shall be duly observed.

If any Manager or Teacher of any United School acts or permits any Person to act in contravention of any of the Conditions contained in this Section, or fails to comply with any of such Conditions, such School shall be liable to be excluded from Union with the School Committee.

24. When the School Committee, on any Complaint or otherwise, have Reason to suppose that there has been any Breach of or Non-compliance with the General Conditions in a United School, they shall proceed as follows ; (that is to say,) Proceedings
for excluding
School from
Union.

1. The School Committee shall forthwith serve on the Managers a Notice in Writing, complaining of the alleged Breach of or Non-compliance with the General Conditions, and requiring the Managers to remedy the Matter complained of, and to bring their School into conformity with the Conditions, and stating that if they fail to comply with the Notice their School will be excluded from Union :

2. If the Managers, within *One* Month after such Notice being served, fail to comply therewith, the School Committee shall fix a Time and Place for holding a Meeting to consider the Exclusion of the School :

3. The School Committee shall serve on the Managers a Notice stating that at the Time and Place so fixed the Committee will meet to consider the Question of the Exclusion of the School, and will hear any Explanation of the Managers :

4. The School Committee may adjourn such Meeting if they think fit :

5. At the Meeting, or at the adjourned Meeting, if the Complaint, and the Failure of the Managers to remedy the same, or if the Failure of the Managers to conduct their School in conformity with the General Conditions, are or is proved to the Satisfaction of the School Committee, the Committee may resolve that the School be excluded from Union with them :

6. The Managers of the School may, within *One Month* after the Date of such Resolution, appeal to Her Majesty in Council, by a Petition signed by them, and stating the Grounds of their Appeal :
7. Her Majesty may direct such Steps to be taken as to Her Majesty seem proper for ascertaining the Merits of the Case, and may by Order in Council confirm or reverse the Resolution of the School Committee, and such Order shall be binding on all Parties :
8. After the Date of the Resolution excluding the School from Union, unless reversed by any Order in Council, the School shall cease to be in Union with the School Committee ; and such Date is herein-after referred to as the Date of the Exclusion :
9. When a School is excluded from Union, under the Provisions of this Act, no Application to receive such School into Union shall be complied with until the Expiration of *One Year* from the Date of such Exclusion :
10. The Exclusion of a School from Union shall not deprive the Managers thereof of any Monies to which they may be entitled in respect of any Time prior to the Date of the Exclusion :
11. If the School Committee have for good Reason served on the Managers of any School Three Notices of Complaint in any consecutive Twelve Months, they may, on having Occasion to serve Notice of a Fourth Complaint, proceed at once to fix a Time for considering the Exclusion of the School without first serving the said Notice of Complaint.

Regulations
to be ob-
served in
United
Schools.

25. The following Regulations (in this Act referred to as the General Regulations) shall be observed in every United School ; 30
(that is to say,)

- (1.) The Number of each Description of Teachers in the School shall not be less than the Number prescribed by the Government Code, or by some Local Regulation of the School Committee : 35
- (2.) No new Scholars shall be admitted into the School when the School is full. The School shall be considered as full when the average Number of Children in attendance at the School bears a certain Proportion to the Size of the Schoolroom, and such Proportion shall not be less than 40
Ten Square Feet of Area and One hundred Cubical Feet of Contents to each Child. In making the above Computation, the Rules prescribed by the Government Code with respect to the Mode of calculating the average
Number

Number of Children in attendance, and with respect to the Rooms (if more than One) to be included in the Computation, shall be observed :

(3.) Proper Registers of the Admission and daily Attendance of every Scholar at the School, provided by the Managers, shall be kept, and these Registers, and the Books for the Entries of the Inspectors provided by the School Committee, as in this Act mentioned, shall be preserved uninjured, and shall be open to the Inspection of the Chief Clerk, Inspectors, and Members of the School Committee, or any of them, at all reasonable Times : The Register of Admission shall contain the Particulars stated in the Fourth Schedule hereto :

(4.) All Local Regulations made under the Provisions of this Act shall be duly observed.

If any Manager or Teacher of any United School acts or permits any Person to act in contravention of any of the Regulations contained in this Section, or fails to comply with any of such Regulations, such School shall be liable to lose a Portion of the pecuniary Grant herein-after mentioned.

26. It shall be the Duty of the School Committee to see that the General Conditions and General Regulations are observed in United Schools, and to provide for the Inspection of those Schools, and the Examination of the Scholars therein ; but, subject as afore-

Committee not to interfere with School, except to carry out Conditions and Regulations, and to inspect.

27. The Managers of any United School may, by giving *Three* Months Notice in Writing signed by them to the School Committee, withdraw their School from Union with the Committee, and at the Expiration of the said *Three* Months the School shall cease to be in Union with the Committee.

Managers may withdraw from Union.

28. The Managers of any United School, with the Assent of not less than *Two Thirds* of their Body, and with the Consent of the Charity Commissioners, may make an Arrangement with the School Committee for transferring the entire Management of the School to them.

Managers may transfer School to Committee.

Such Arrangement may provide for the absolute Conveyance to the School Committee of all the Interest in the Schoolhouse possessed by the Managers or by any Person who is Trustee for the School, or for the Lease of the same (with or without any Restrictions) to the School Committee, or for the Use by the School Committee of the Schoolhouse, between the Hours of *Nine* in the

Morning and *Five* in the Afternoon during *Five* Days of the Week, and for the Use of the same by the Managers or some other Person on the remaining Two Days of the Week, and after *Five* o'Clock in the Afternoon on the said *Five* Days, or for any other like Arrangement. The Arrangement may also provide for the Committee 5 undertaking to discharge any Debt charged on the School not exceeding the Value of the Interest in the Schoolhouse transferred to them.

When an Arrangement is made under this Section, the Managers may, whether the legal Interest in the Schoolhouse is vested in them 10 or in some Person as Trustee for the School, convey to the School Committee all such Interest in the Schoolhouse as is vested in them or in such Trustee, or such smaller Interest as may be required under the Arrangement.

Every Schoolhouse obtained by the School Committee under this 15 Section shall be used by them for a School conducted as a School herein-after called a District School, and all the Provisions of this Act relating to District Schools shall apply accordingly ; and any Debt which the Committee undertake to discharge shall be deemed 20 to be Monies expended in providing a Schoolhouse.

PART IV.

ESTABLISHMENT OF NEW SCHOOLS.

Committee
to examine
District and
Report on
new Schools.

29. The School Committee shall from Time to Time inquire into the Amount of School Accommodation in their District for the poorer Classes of the People. If they are of opinion that the poor 25 Inhabitants of any Part of their District are not provided, or not sufficiently provided, with Schools, conducted in accordance with the General Conditions and General Regulations (except so far as such Conditions and Regulations relate to the School Committee), they shall publish *Three* Times at least in *One* Month a Report, 30 setting forth with respect to the Part of their District to which the Report refers, the Amount of the Population, the Number and Description of the several Schools in or near such Part, and stating the Amount and Description of the additional School Accommodation which appears to them to be necessary. 35

Persons may
undertake to
provide new
Schools in
Union with
Committee.

30. Within *Sixty* Days after the last Publication of any such Report by the School Committee, any Person or Persons may serve on the School Committee an Undertaking signed by him or them to provide within *Twelve* Months from the Date of such Service a United School of such a Description as is required. 40

If

If the School Committee are satisfied that the Person or Persons signing the Undertaking are qualified to fulfil their Undertaking, they shall take no further Step for providing a School in the Part of their District to which the Undertaking relates, until the Failure of
5 such Person or Persons as herein-after mentioned.

If the Person or Persons who signed the Undertaking fail, within *Six* Months after the Service thereof on the Committee, to proceed to carry it out, or fail, within *Eighteen* Months after such Service, to have in operation such a School as he or they undertook to
10 provide, the School Committee may proceed as if such Undertaking had not been given, but shall previously publish Notice of their Intention so to do.

31. If no Undertaking is given, or if the Person or Persons giving the same fail as aforesaid, the Committee may provide, by
15 building or otherwise, One or more Schoolhouses properly fitted up, and may for that Purpose purchase or take on Lease any Land or Building.
Committee may provide Premises for a School.

For the Purposes of any such Purchase "The Lands Clauses Consolidation Act, 1845," (except so much as relates to the Purchase
20 of Land otherwise than by Agreement,) shall be incorporated with this Act; and in construing the said Act for the Purposes of this Act the Special Act shall be construed to mean this Act, and the Promoters of the Undertaking shall be construed to mean the School Committee.

32. The School Committee shall take care that all Schools
25 provided by them (which Schools are in this Act referred to as District Schools) are conducted in accordance with the General Conditions and General Regulations; but, subject as aforesaid, the Committee shall have the entire Control and Management of
30 those Schools, and may conduct them either as Free Schools or as Aided Schools.
Management of School provided by Committee.

They may from Time to Time delegate such Control and Management, with or without any Conditions or Restrictions, to a Body of Managers, consisting of not less than *Three* Persons, who possess
35 the same Qualifications as are required for Members of the School Committee.

The School Committee may from Time to Time add to or diminish the Number of or otherwise alter the Constitution of any Body of Managers formed by it under this Section, and may, if they
40 think fit, resume the Power so delegated. If the Managers appointed by them act or permit any Person to act in contravention of or fail to comply with the General Conditions or the General Regulations, the School Committee shall remove such Managers.

Any Manager so appointed may resign on giving One Month's written Notice to the Committee. The Rules contained in the Third Schedule hereto respecting the Proceedings of Bodies of Managers appointed by a School Committee shall be observed in the same Manner as if they were enacted in the Body of this Act. 5

Committee
may sell or
let an un-
necessary
Schoolhouse.

33. The School Committee may permit the Schoolhouse of any District School, during the Hours at which it is not used for such School, to be used by any Persons for other educational Purposes. If any District School, or any Portion of the Schoolhouse belonging thereto, is not required, the School Committee may, with the Consent of the Charity Commissioners, sell or let the Schoolhouse, or so much thereof as is not required, for the best Consideration that can be got. 10

The Provisions of the Acts relating to the Charity Commissioners which relate to the Sale, Leasing, and Exchange of Lands belonging to any Charity shall extend to the Sale, Leasing, and Exchange of Lands and Buildings belonging to a School Committee. 15

PART V.

UNITED AND DISTRICT SCHOOLS.

20

Inspection.

Schools to be
inspected
and exam-
ined at
least once in
Six Months.

34. The School Committee shall cause every United and District School in their District to be inspected and the Scholars therein to be examined at least once in every *Six Months* by One of their Local Inspectors. They may also, at any Time, send a Local Inspector to inspect any United or District School, with the view of ascertaining whether the General Conditions and General Regulations are complied with. 25

The Inspector shall report in Writing to the Committee the Result of every Inspection and Examination by him, and the Committee may publish the whole or such Parts of the Reports of their Inspectors as they think fit. 30

Entries in
Books by
Inspector.

35. Every Inspector shall enter, in a Book kept at the School, and provided by the School Committee for the Purpose, the Day, Hour, and Length of his Visit, the Number and Description of the Classes of Scholars which he examines, and the Subjects of the Examination, and any other Matters relating to the Inspection and Examination which he thinks proper. 35

Payments

Payments in support of Schools.

36. On the *last* Saturday in the Months of March, June, September, and December in every Year, the Managers of every United and District School shall send to the School Committee a correct Abstract of the Attendance Register of their School during the preceding Twelve Months. The Abstract shall contain the Particulars specified in the Fifth Schedule hereto, and shall be signed by the Principal Teacher of the School, and the Certificate of Compliance with the General Conditions and General Regulations set out in the same Schedule shall be appended at the Foot of such Abstract, and shall be signed by the Managers of the School.

Quarterly
Abstract of
Attendance
Register to
be sent to
School Com-
mittee.

37. On the Receipt of such Abstract and Certificate from the Manager of any School, the Committee may take such Steps as they think fit to ascertain the Correctness of the Abstract and Certificate. When they are satisfied of the Correctness of the Abstract and Certificate, or, if the Abstract was erroneous, after the Error is corrected, the School Committee shall pay to the said Managers towards the Expenses of their School the Grant herein-after mentioned.

If Abstract
and Certifi-
cate correct,
Grant to be
made by
Committee
to Managers.

38. The Grant shall be calculated on such Scale as may have been arranged between the School Committee and the Managers, but such Scale shall not exceed the following Sums for each Week that the Child has attended the School; (that is to say,)

Amount of
Grant to be
made.

If the School is a Free School—

For a Boy above Six Years of Age - *Sixpence* ;
For a Girl above Six Years of Age - *Fivepence* ;
For a Boy or Girl under Six Years of
Age - - - *Fourpence* ;
For a Boy or Girl employed in a
Factory, or in Service, or in some
particular Description of Labour - *Fourpence Halfpenny* :

If some Trade, Business, or Manual Occu-
pation is taught in the School—

For each Boy or Girl - - - *Ninepence* :
If the School is an Aided School, *One Half* of the Sums above
mentioned respectively.

Where, with respect to a School which is not in Receipt of any annual Grant out of Monies provided by Parliament, the Local Inspector reports that at his last Half-yearly Inspection any Child above Six Years of Age who has attended the School during the Six Months preceding such Inspection has been properly instructed in Reading, Writing, and Arithmetic, or in any Two or One of those Subjects, the School Committee may grant to the Managers

of the School in respect of such Child for those Six Months a further Sum not exceeding *One Shilling and Fourpence* in respect of each of the above Subjects in which the Child has been properly instructed.

Mode of
computing
weekly
Attendance.

39. In computing, for the Purposes of this Part of this Act, the Number of Weeks that a Child has attended School, the Number of separate daily Attendances required to make up a Week's Attendance shall not be less than the following Scale; namely,

Eight separate Attendances on at least Four Days in One Week to make up One Week's Attendance; 10

Sixteen Attendances on at least Eight Days in Two consecutive Weeks to make up Two Weeks Attendance;

Twenty-four Attendances on at least Twelve Days in Three consecutive Weeks to make up Three Weeks Attendance; and so on: 15

Or, in the Case of Children employed in Labour who are subject to any Act for regulating Labour either in Factories or elsewhere—

Four Attendances in One Week to make up One Week's Attendance;

Eight Attendances in Two consecutive Weeks to make up Two Weeks Attendance; 20

Twelve Attendances in Three consecutive Weeks to make up Three Weeks Attendance; and so on:

Provided that there shall not be included in the above Computation— 25

(1.) Any Attendance at which the Child has been under Instruction for less than Two Hours;

(2.) Any Attendance before Eight o'Clock in the Morning or after Five o'Clock in the Afternoon;

(3.) Any Attendance on Sunday. 30

Mode of
computing
Half-yearly
Attendance.

40. For the Purposes of a Grant under this Act, a Child shall not be deemed to have attended the School during *Six Months* prior to an Inspection who has not during that Period attended the School for at least *Sixteen Weeks*, computed according to the Provisions of this Act. 35

Reduction of
Grant for
Breach of
General
Regulations.

41. If the School Committee are not satisfied of the Correctness of the Certificate, and on any Complaint or otherwise have Reason to suppose that there has been any Breach of or Non-compliance with any of the General Regulations in the School, they shall proceed as follows: 40

(1.) The School Committee shall fix a Time and Place for holding a Meeting to consider the Question of reducing the Grant:

(2.) The

- (2.) The School Committee shall send to the Managers of the School a Notice in Writing complaining of the alleged Breach of or Non-compliance with the General Regulations, and stating that at the said Time and Place the Committee will meet to consider the Question of reducing the Grant, and will hear any Explanation of the Managers :
- (3.) The School Committee may adjourn such Meeting, if they think fit :
- (4.) At the Meeting, or at the Adjourned Meeting, if the Matter complained of is proved to the Satisfaction of the School Committee, the Committee shall resolve to reduce the Grant claimed in the Certificate by such Sum not exceeding Three Fourths of the whole as the Committee think fit :
- (5.) The Committee, in determining the Amount of the Reduction, shall take into consideration, among other Matters, any previous Breach of or Non-compliance which has occurred in the same School.

42. The School Committee may pay all the Expenses necessary for maintaining a District School.

Committee
to pay Ex-
penses of
District
School.

43. No Payment shall be taken in any Free School from the Scholars ; and if Payment is taken from any Scholar without the Consent of the School Committee, the Grant by the School Committee in respect of such Scholar may be wholly or partly refused, and if made shall not exceed the Scale provided by this Act for a Scholar in an Aided School.

In Free
Schools no
Payment to
be taken.

44. In every Aided School every Scholar shall pay a Weekly Fee equal to the Sum agreed to be granted by the School Committee for each Weekly Attendance of such Scholar.

In Aided
Schools,
Scholars to
pay Fees.

30 The School Committee may, on the Application of the Managers, permit them to receive in an Aided School any particular Scholars, or any particular Class of Scholars, without any Payment, or with a smaller Payment than is required by this Section.

35 If, in pursuance of this Provision, the Managers of an Aided School receive any Scholar without any Payment, the School Committee may grant to the Managers in respect of such Scholar the same Amount as they are authorized to grant in respect of a Scholar in a Free School.

Expenses of Committee.

40 45. The Expenses of any Proceedings taken with a view to the Adoption of this Act [shall, whether the Act is adopted or not, be deemed
[111.] C

Expenses of
Proceedings
taken with
a view to

Adoption of
the Act.

deemed to be Expenses incurred under this Act. If the Act is adopted, they shall be defrayed by the School Committee; if the Act is not adopted, the Returning Officer may issue a Precept to recover them in the same Manner as if he were the School Committee.

5

Mode of
obtaining
Money for
Expenses of
Committee.

46. The Expenses of the School Committee, including the Expenses of any Proceedings taken either for passing any Resolution under this Act, or for electing the Members of the Committee, and including any Costs directed to be paid by them on any Appeal under this Act, shall be paid out of a Fund to be called the School 10 Fund, and to be raised as follows :

The School Committee of each District shall serve a Precept on the Local Authority named with reference to that Description of District in the Third Column of the First Schedule hereto, and the said Authority, on the Service of such Precept, shall pay the 15 Amount specified therein to the Treasurer of the School Committee out of the Monies in that Behalf specified in the Fourth Column of the said Schedule, and the Receipt of such Treasurer shall be a good Discharge for the Amount so paid.

If the Local Authority have no such Monies in their Hands, they 20 shall, or if they have paid the Amount, then, for the Purpose of reimbursing themselves, they may levy the Rate, or require the Contribution or any Increase of the Rate or Contribution specified in the said Fourth Column, and for that Purpose shall have the same Powers of levying a Rate, or Increase of a Rate, or requiring 25 a Contribution, as they have for the Purpose of defraying Expenses to which the Rate or Contribution is ordinarily applicable.

Money ex-
pended in
providing a
School to be
charged to
Parish.

47. Where the School Committee expend any Money in providing or fitting up a Schoolhouse, the Amount so expended shall be charged to the separate Account of the Parish in which the School 30 benefited by the Expenditure is situate, and shall be exclusively levied in or charged to the said Parish by the Local Authority which pays the Amount to the School Committee.

Where the School Committee receive any Money in respect of the Sale, Lease, or Exchange of the whole or any Part of any Land 35 or Schoolhouse which was purchased, built, or improved out of Money charged to the separate Account of the Parish in which it is situate, the Money so received shall be carried to the separate Account of such Parish, and applied in Discharge of Monies which would otherwise be charged to such Parish.

40

Where any Sum is charged or carried to the separate Account of any Parish, the Precept of the School Committee shall state the Fact, and the Local Authority shall accordingly increase or diminish the Amount levied in or charged to such Parish.

48. When

48. When the School Committee expend any Money in providing a Schoolhouse, they may, if they think fit, spread the Payment over several Years, not exceeding *Five*, and may for that Purpose borrow Money on the Security of the School Fund. They may, if they so agree with the Mortgagee, pay the Amount borrowed, with the Interest, by equal annual Instalments; and if they do not so agree, they shall annually set aside *One Fifth* of the Sum borrowed as a Sinking Fund.

Expense of providing a School may be spread over Five Years.

For the Purpose of such borrowing the Clauses of "The Commissioners Clauses Act, 1847," with respect to the Mortgages to be executed by the Commissioners, shall be incorporated with this Act; and in the Construction of those Clauses for the Purpose of this Act this Act shall be deemed to be the Special Act, and the School Committee which is borrowing shall be deemed to be the Commissioners.

49. Where, in the Case of a Union as defined by this Act, this Act is adopted for so much only of the Union as lies without the Limits of some other District, the Guardians, or other Body of Persons performing the Functions of Guardians of the Union, shall apportion the Sums paid by them to the School Committee among the Parishes which lie without the Limits of such other District in Proportion to the rateable Value of such Parishes, and shall charge to each such Parish the Sum so apportioned to it, and shall require Payment thereof in the same Manner as they require Payment of Contributions for the Relief of the Poor.

Provision for Case of Part of Union being included in another District.

If, in the aforesaid Case, Part of a Parish lies within and Part without the Limits of such other District, the Part that lies without such Limits shall, for the Purposes of this Act, be deemed to be a Parish, and the Guardians of the Union shall from Time to Time appoint an Officer or Officers to act as Overseers within the said Part of a Parish; and the Officer or Officers so from Time to Time appointed shall have, within the said Part of a Parish, all the Powers of levying a Rate for the Purpose of defraying the Sum apportioned as aforesaid to such Part of a Parish which he or they would have if the said Part of a Parish were a Parish, and such Rate were a Rate for the Relief of the Poor, and he or they were duly appointed an Overseer or Overseers of such Parish, and he and they shall have such Access to and Use of the Rate Books of the Parish as he or they may require.

40

Accounts.

50. The Accounts of each School Committee shall, once in every Year, be made up and balanced to the same Day to which the Accounts are made up of the Local Authority, which is specified in [111.] C 2 the Accounts to be made up to 30th September, and Statement to be published.

the Third Column of the First Schedule hereto as the Authority which is to pay such Committee. The Accounts shall be audited by the School Committee, and signed by the Chairman within *One Month* after the Day to which they are made up. After the Accounts are so signed, the Receipts and Expenditure of the School Committee shall be audited by the same Persons as audit the Accounts of the aforesaid Local Authority; and such Auditors shall proceed in the Audit after the same Notice and in the same Manner, and shall have the same Powers and Authorities, and shall perform the same Duties, as in the Case of auditing the Accounts of the said Local Authority.

If any of the Auditors is a Member of the School Committee, the Local Authority shall appoint some other Person to act in his Place so far as relates to an Audit under this Act.

Each Auditor shall, in respect of each Audit, be paid out of the School Fund such reasonable Sum, not being less than *Two Guineas*, for every Day in which he is employed in such Audit, as the School Committee from Time to Time appoint, with his Expenses of travelling to and from the Place of Audit.

When the Auditors have completed the Audit, they shall sign the Balance Sheet.

The Committee shall cause a Statement showing the Receipt and Expenditure in respect of each Parish, and such other Particulars, and in such Form as Her Majesty in Council may direct, to be printed, and sent within *Thirty Days* after the said Audit to each Member of the said Local Authority, and to the Overseers of every Parish in the District; and the Chief Clerk of the Committee shall furnish a Copy of such Statement to any Ratepayer within the District, on his Application, and on the Payment of a Sum not exceeding *One Penny*.

30

PART VI.

SUPPLEMENTAL.

Special Cases of Adoption.

A Parish may apply to Her Majesty in Council to be excluded from a School District.

51. In Cases where a Resolution adopting this Act has been passed in any District, if any Number, not being less than *One Twentieth* (either in Number or in Amount of rateable Value) of the Electors in such Place are desirous that any Parish forming Part of such District should be excluded from the Operation of this Act, they may proceed as follows:—

1. They may present a Petition subscribed by them to Her Majesty in Council, appealing against such Resolution, and praying that such Exclusion may be made.

2. Such

2. Such Petition shall be presented within *Twenty-one* Days from the Date of the passing of the Resolution appealed against, and shall state—

5 (a.) The Parish proposed to be excluded, accompanied with an explanatory Plan; and

(b.) The Reasons for such Exclusion.

3. Upon the Receipt of such Petition, Her Majesty may direct an Inquiry to be made in the District:

10 (a.) As to the Genuineness of the Petition; and

(b.) As to the Matters alleged in such Petition:

4. *Fourteen* Days Notice of the Time, Place, and Subject of such Inquiry shall be published:

5. Her Majesty may, by Order in Council, decide the Matter in question, and any Order in Council so made shall be binding on the Place in respect of which it is made, and may fix the Time at which this Act is to come into force, and direct how the Costs of the Appeal are to be borne:

15 6. Where Part of a Parish only is included in the Limits of a School District, such Part of a Parish shall, for the Purposes of this Section, be deemed to be a Parish.

52. Where it is desired to extend, for the Purposes of this Act, the Limits of any District, and for that Purpose to form a United School District, by effecting either—

Union of Districts and Parts of Districts.

1. The Union of any District to another contiguous District; or

25 2. The Union of a Part of a Parish in which this Act is not in force to a District which comprises the other Part of the same Parish; or

3. The Union to a District which is a Borough or other like Town of a contiguous Parish in which this Act is not in force, and into which the Population properly belonging to such District extends,

30 in such Case, whether this Act has or has not been actually adopted in the said Districts, Application may be made to Her Majesty in Council to form the United School District by effecting the said Unions.

53. The following Enactment shall be made with respect to such Application for a United School District:

Proceeding to obtain a Union of Districts or Parts of Districts.

1. A Petition shall be presented to Her Majesty in Council, by such Places as aforesaid, praying that they may be united into One School District:

40 2. Such Petition must be approved by a Resolution passed in each of the Places sought to be united, in the same Manner as a Resolution adopting this Act, and shall be

[111.]

C 3

signed

- signed by the Chairman of the Meeting, and shall be supported by such Evidence as Her Majesty in Council directs :
3. Upon the Receipt of such Petition, Her Majesty may direct an Inquiry to be made in the Places proposed to be united, (a.) as to the Genuineness of the Petition, and (b.) as to the Propriety of uniting the Places so petitioning : 5
 4. *Fourteen Days* Notice of the Time, Place, and Subject of such Inquiry shall be published :
 5. Her Majesty may, by Order in Council, give or withhold Her Sanction to or from such proposed Union, either wholly or partially, and may exclude from such Union any Place or Places situate within the Boundaries of any such proposed United School District, and any Order so made shall be binding on all Parties : 10
 6. Her Majesty in Council, on giving Her Sanction either wholly or partially to such Union, may by the same or some subsequent Order appoint a Returning Officer, and make Provision for filling up any Vacancy that may occur by reason of the Death, Incapacity, Neglect, or Refusal to act of such Returning Officer, and may make such other Provisions as may be necessary for carrying out the Provisions of this Act in such District : 15
 7. Her Majesty may, by the said Order, give Directions with respect to the Parties by whom the Costs of the Proceedings are to be borne : 20
 8. After the Expiration of *One Month* from the Date of the said Order this Act shall have the Force of Law in the District sanctioned by the Order in the same Manner as if the District were a District specified in this Act, and this Act had been expressly adopted therein, and the Expiration of that Month shall be deemed to be the Date of the Constitution of the District : 25
 9. For the Purposes of the Meeting in a Parish or Part of a Parish to approve the Petition, the Overseers of the Parish, or One of them, shall be the Returning Officer. 30 35

Miscellaneous.

Provision
in case of
Failure of
Returning
Officer.

54. If the Returning Officer of any District refuses, or is unable or neglects to perform the Duties imposed on him by this Act, then, in the Case of the Adoption of the Act, or of a First Election, Her Majesty, on the Petition of any *Five* Electors of such District, may, by Order in Council, appoint a Person to act as Returning Officer ; and in any Case subsequent to the First Election of the School Committee, the Chairman, or in default of him, the Vice-Chairman of the School Committee shall be the Returning Officer. 40

55. If

55. If any Returning Officer makes default in performing any Duty imposed on him by this Act, he shall for each Offence incur a Penalty not exceeding *Fifty Pounds*.

Penalty for Default of Returning Officer.

56. The Town Clerk of every Borough, on Notice in Writing signed by the Returning Officer or by the Chairman of a Meeting under this Act being served upon him, shall, without Fee or Charge, produce to such Returning Officer or Chairman the Burgess Roll of the Borough, and allow the said Officer or Chairman to inspect and take Copies of and Extracts from the said Roll.

Town Clerk and Overseers to produce Burgess Roll and Rate Books.

10 The Overseers, Assistant Overseer, and Rate Collector of every Parish, on Notice in Writing signed by a Returning Officer or by a Chairman of a Meeting under this Act being served on them or him, shall, without Fee or Charge, produce to such Returning Officer or Chairman the then existing Rate Books of the Parish, and allow the said Returning Officer or Chairman to take Copies of and Extracts from the said Books.

The Assistant Overseer and Rate Collector of every Parish, on Notice in Writing signed by a Returning Officer or Chairman of a Meeting under this Act being served on him, shall, without Fee or Charge (except travelling Expenses), attend a Meeting, Poll, or Scrutiny held under this Act, with the Books relating to the Rates of the Parish.

20 If any Town Clerk, Overseer, Assistant Overseer, or Rate Collector refuses to act in accordance with the Provisions of this Section, he shall be liable to a Penalty not exceeding *Five Pounds*.

57. Where a Meeting of Electors is held in any District, in pursuance of the Provisions of this Act, any Room, the Expense of maintaining which is payable out of any Rate raised in such District, may, with the Consent of the Person or Corporation having Control over the same, be used for the Purpose of such Meeting.

Room maintained out of public Monies may be used for Meeting.

58. The School Committee shall publish a Notice of the Admission of any School into Union with them, and of the Exclusion or Withdrawal of any School from Union, in manner directed by this Act with respect to Notices, and also by affixing the same to the principal Door of the Schoolhouse.

Notice of Admission and Exclusion of School to be published.

59. Notices and other Matters required by this Act to be published shall be published—

Mode of Publication of Notices.

40 1. By Advertisement in some One or more of the Newspapers circulating in the District :

[111.]

C 4

2. By

2. By causing a Copy of such Notices or other Matter to be published to be affixed on Sunday to the principal Doors of every Church and Chapel in the District to which Notices are usually affixed.

Notices may
be served by
Post.

60. Notices, Undertakings, Precepts, and all Documents required by this Act to served or sent, may be served and sent by Post, and shall be deemed to have been served and received respectively at the Time when the Letter containing the same would be delivered in the ordinary Course of Post; and in proving such Service or Sending it shall be sufficient to prove that the Letter containing the Notice was prepaid, and properly addressed, and put into the Post. 5

Notices to
and by Com-
mittee.

61. Notices may be served on the School Committee by serving the same on their Chief Clerk, or by sending the same to or delivering the same at the Office of the Committee. Notices and other Documents requiring Authentication by the School Committee may be signed by their Chief Clerk, and may be in Writing or in Print, or partly in Writing and partly in Print. 15

Evidence of
Adoption of
Act.

62. Any Resolution passed for adopting this Act, or for any other Matters required to be done by such Resolution, may be proved by the Production either of a Newspaper containing the Advertisement of such Resolution, or of a Minute purporting to be signed by the Chairman of the Meeting, and setting forth the Resolution; and, if there was a Poll or Scrutiny, the Numbers of the Votes as declared on the Poll or on the Scrutiny must be annexed to the Resolution. 20 25

Evidence of
Admission or
Exclusion of
School.

63. The Fact of the Admission of any School into Union with the Committee, and the Fact of the Exclusion of any School from such Union, may be proved by the Production of a Copy purporting to be certified by the Chief Clerk of the School Committee to be a true Copy of the Minute of the Resolution of the School Committee admitting or excluding the School, or by a Copy purporting to be certified in like Manner of the Order made by Her Majesty in Council with reference to such Admission or Exclusion. 30

Receipt of
Managers to
be a Dis-
charge.

64. The Receipt of the Managers of any School for any Monies paid to them by the School Committee shall be a good Discharge to the said Committee for such Monies. 35

Managers
may act by a
Majority.

65. Any Acts required or authorized by this Act to be done, and any Signatures or Receipts required or authorized by this Act to be given, by the Managers of any School, may, unless the Context otherwise requires, be done and given by such Number of the 40

the Managers as, under their Constitution, have Power to bind the rest, or if there is no such Number fixed by the major Part of them.

66. Every Ratepayer in the District may at all reasonable
5 Times, without Payment, inspect and take Copies of and Extracts from all Books and Documents belonging to or under the Control of the School Committee.

Ratepayers may inspect Books, &c. of Valuation Board.

Any Person who hinders a Ratepayer from so inspecting or taking Copies of or Extracts from any Book or Document, or
10 demands a Fee for allowing him so to do, shall be liable to a Penalty not exceeding *Five* Pounds for each Offence.

67. Any Teacher or other Officer appointed by the School Committee, or by any Managers appointed by them, who by virtue of his Office has Possession of any House, Land, or Property belong-
15 ing to the School Committee, may, on ceasing to hold his Office, be removed from such Possession in the Manner provided by the Thirteenth Section of the Act of the Session of the Twenty-third and Twenty-fourth Years of the Reign of Her present Majesty, Chapter One hundred and thirty-six; and in construing that
20 Section for the Purposes of this Act the Trustees shall be deemed to include the School Committee.

Teacher, if dismissed, may be removed from House, under 23 & 24 Vict. c. 136. s. 13.

68. Any Person who forges or assists in forging or procures to be forged, or fraudulently alters or assists in fraudulently altering or procures to be fraudulently altered, any Voting Paper, or who
25 personates any Elector, or falsely assumes to act in the Name or on the Behalf of any Elector, or distributes or collects any Voting Papers under a false Pretence of being lawfully authorized so to do, or who interrupts such Distribution or Collection, shall for every such Offence be guilty of a Misdemeanor, and be liable to be
30 imprisoned for any Period not exceeding *Three* Months, with or without Hard Labour.

Punishment for Forgery of Voting Papers.

69. Penalties under this Act may be recovered before Two Justices in manner directed in an Act passed in the Session holden in the Eleventh and Twelfth Years of the Reign of Her Majesty
35 Queen Victoria, Chapter Forty-three, intituled "An Act to facilitate the Performance of the Duties of Justices of the Peace out of Sessions within England and Wales with respect to Summary Convictions and Orders," and any Act amending the same.

Recovery of Penalties.

70. Nothing contained in this Act shall prevent any Monies
40 provided by Parliament being granted to any United or District School.

Saving of Parliamentary School Grant.

FIRST SCHEDULE.

District.	Returning Officer.	Local Authority who are to pay the Committee.	Fund or Rate out of which Expenses are to be paid.
The City of London and the Liberties thereof.	The Lord Mayor	- The Commissioners of Sewers.	The Consolidated Rate. 5
Parishes within the Metropolis mentioned in Schedule A. to "The Metropolis Management Act, 1855."	Chairman of the Vestry appointed for the Purposes of "The Metropolis Management Act, 1855."	The Vestry	The General Rate leviable under "The Metropolis Management Act, 1855." 10
Districts within the Metropolis formed by the Union of the Parishes mentioned in Schedule B. to "The Metropolis Management Act, 1855."	Chairman of the Board of Works for the District, appointed for the Purposes of "The Metropolis Management Act, 1855."	The Board of Works for the District.	The General Rate leviable under "The Metropolis Management Act, 1855." 15
Boroughs (1), with the Exception of the Boroughs of Oxford and Cambridge.	The Mayor	- - The Town Council	The Borough Fund or the Borough Rate, or other Monies applicable to the Purpose of a Borough Rate. 20
The Borough of Oxford, and Places which are not included in the above Descriptions, and are under the Jurisdiction of a Local Board.	The Chairman of the Local Board.	The Local Board	Monies payable to the District Fund Account and the General District Rate. 25
The Borough of Cambridge, and Places which are not included under the above Descriptions, and are under the Jurisdiction of Commissioners, Trustees, or other Persons entrusted by any Local Act with Powers of improving, cleansing, or paving any Town.	The Chairman of the Commissioners, Trustees, or other Persons entrusted by the Local Act with Powers of improving, cleansing, or paving the Town.	The Commissioners, Trustees, or other Persons.	Any Rate leviable by the Commissioners, Trustees, or other Persons, or any Funds applicable by them to the Purposes of improving, cleansing, or paving the Town. 30 35 40
Unions (2), which are not included in the Places above described.	The Chairman of the Board of Guardians, or other Body of Persons exercising the Functions of Guardians.	The Board of Guardians or other Body of Persons.	The Common Fund and Contributions from the Parishes in the Union and other Monies in the Hands of the Guardians or other Body of Persons applicable to the Relief of the Poor. 45

Expla-

Explanation.

For the Purposes of this Act, the following Words shall have the Meanings herein-after assigned to them; (that is to say,)

1. The Word "Borough" shall mean any Place for the Time being subject to the Provisions of the Act of the Session holden in the Fifth and Sixth Years of the Reign of His Majesty William the Fourth, Chapter Seventy-six, intituled "An Act to provide for the Regulation of "Municipal Corporations in England and Wales:"
2. The Word "Union" shall mean any Place, whether consisting of One Parish or more than One Parish, which, under any General or Local Act, is subject to the Jurisdiction of a Board of Guardians, or other Body of Persons performing the Functions of Guardians, provided that—
 - (a) Where a Union includes in its Limits the whole of any of the Places before described, and the Place so included has not adopted this Act, this Act may be adopted by the whole Union:
 - (b) Where the Place so included has adopted this Act, this Act may be adopted by that Part of the Union which lies without the Limits of the said Place:
 - (c) Where a Union includes a Part only of any of the Places before described, the Act may be adopted by that Part of the Union only which lies without the Limits of the said Place, whether that Place has or has not adopted this Act.

SECOND SCHEDULE.

PART I.

25 *Regulations respecting Proceedings for the Adoption of this Act, &c.*

The following Regulations shall be made respecting the Proceedings for the Adoption of this Act; and for other Matters authorized by this Act to be done by Resolution:

- 30 1. The Returning Officer of any District on receipt of such an Application, as mentioned in this Act, shall forthwith convene a Meeting of the Electors of such District:
2. The Returning Officer shall fix the Day, Time and Place for holding such Meeting; but the Time so fixed shall not be less than Fourteen Days nor more than Twenty-one Days after the Receipt by him of the Application:
3. The Returning Officer shall forthwith publish in manner provided by this Act a Notice convening the Meeting, and stating the Object thereof, and the Day, Time, and Place so fixed for the same:
- 40 4. Upon the Assembling of the Meeting together, the Returning Officer shall be the Chairman, or, if the Returning Officer be not present, any Elector present, chosen by the Meeting, shall be Chairman:

5. The Chairman shall preside and regulate the Proceedings at such Meeting, and may, with the Consent of a Majority of the Electors present at the Meeting, adjourn the same from Day to Day :
6. Any Elector present may propose to the Meeting a Resolution in respect of the Matters of which the Meeting has Cognizance under this Act: 5
7. The Chairman shall ascertain the Opinion of the Meeting in respect of any Resolution submitted to them ; but any Five Electors present may, by Writing under their Hands presented to the Chairman, demand a Poll :
8. If no Poll is demanded, or if the Demand for a Poll is withdrawn by the Parties making the same at any Time previously to the taking of the Poll, a Declaration by the Chairman that the Opinion of the Meeting is in favour of or against any Resolution, as the Case may be, shall, in the Absence of Proof to the contrary, be sufficient Evidence that the Resolution is passed or rejected: 10 15
9. If a Poll is demanded as aforesaid, the Chairman shall adjourn the Meeting to such Day, not less than One nor more than Two Months afterwards, as he thinks will allow sufficient Time for the convenient taking of the Poll in the meantime :
10. A Poll and the subsequent Proceedings shall be conducted in manner provided by the Second Part of this Schedule. 20

PART II.

Regulations respecting a Poll.

The following Regulations shall be made respecting the taking of a Poll:

1. The Returning Officer shall, as soon as may be after the Adjournment of the Meeting, fix the Day and Place or Places for taking the Poll ; but the Day so fixed shall be before, but not more than Seven Days before, the Date of the adjourned Meeting ; he may also fix a Time, not earlier than Four o'Clock in the Afternoon, after which the Poll will be closed and no Voting Papers will be received: 25 30
2. The Returning Officer shall forthwith publish, in manner provided by the Act, Notice of the Day and Place or Places so fixed, and of the Object of the Poll, and of the Time (if any) of closing the Poll ; and shall cause, as soon as possible, Voting Papers to be prepared:
3. The Returning Officer may, by Writing under his Hand, appoint One or more Persons to assist as his Deputies in taking the Poll: 35
4. The Voting Papers shall be in the Form set forth at the End of this Schedule, or in such other Form as may from Time to Time be approved by Her Majesty in Council ; and every such Voting Paper shall specify the Day and Time (if any), and Place or Places, when and where such Voting Paper is to be returned to the Returning Officer : 40
5. The Returning Officer shall, not less than Three Days before the Day fixed for the Poll, cause a Voting Paper to be delivered or sent by Post, prepaid, to every Elector, but so that no Elector shall receive more than One Voting Paper : 45

6. Each

6. Each Voter shall fill up the Voting Paper in manner directed on the Forms set out at the End of this Schedule, and shall sign the Voting Paper, and return it to the Returning Officer or One of his Deputies:
- 5 7. The Returning Officer shall openly examine the Votes so returned, and having ascertained their Validity, shall sum up the Result:
8. The Chairman at the Adjourned Meeting shall openly declare the Result of the Poll:
9. If at such Adjourned Meeting any Elector demands a Scrutiny, and finds Security to the Satisfaction of the Chairman for the Reimbursement of the Expenses attending the same, the Chairman shall proceed to make the Scrutiny in such Way as he thinks fit, and shall report the Result to a Second Adjourned Meeting appointed by him for a Day not later than the Seventh Day after the First Adjourned Meeting:
- 10 10. The Chairman shall decide all Questions arising upon such Scrutiny:
11. The Person demanding the Scrutiny shall pay the Expenses attending the same:
12. The Result of such Scrutiny when so declared as aforesaid, or, if no Scrutiny is demanded, the Result of the Poll as originally declared, or, if no Poll is had, the Declaration of the Chairman at the Meeting, shall be conclusive and shall be the final Result of the Meeting:
- 20 13. The Returning Officer shall forthwith publish the final Result of the Meeting in manner in which Notices are required by this Act to be published; and if there was a Poll or Scrutiny the Numbers on such Poll or Scrutiny.
- 25

PART III.

Election of School Committee.

The First Election of a School Committee by the Common Council of the City of London and by a Town Council shall take place on such Day, not less than *Ten* nor more than *Twenty-one* Days after the Date of the Constitution of the District, as the Returning Officer may appoint.

The Annual Election of Members of a School Committee by the Common Council of the City of London, and by a Town Council, shall take place on the *Ninth* or some subsequent Day in November in every Year.

35 The Election shall be conducted in the Manner in which Elections by the said Council are ordinarily conducted, and it shall be the Duty of the Returning Officer to summon a Meeting of the Council for the Purpose of such Election.

The following Regulations shall be made with respect to the Election of a School Committee in Districts where the School Committee are not elected by the Town Council; (that is to say,)

1. The Meeting for the First Election shall be held on such Day not less than *Ten* nor more than *Twenty-one* Days after the Date of the Constitution of the District, as the Returning Officer may appoint:
- 45 2. The Meeting for the Annual Elections shall be held on such Day
[111.] D 3 between

- between the *First* and *Ninth* of October in every Year, as the Returning Officer may in each District from Time to Time appoint:
3. On every Occasion of the Election of Members of a School Committee the Returning Officer shall convene a Meeting of the Electors for the Purpose of such Election, and shall at least *Seven* Days before publish 5
Notice of the Day, Time, Place, and Object of such Meeting :
 4. The Returning Officer, if present, shall be Chairman of the Meeting ; and if he is not present, some Elector present, chosen by the Meeting, shall be Chairman ; the Chairman shall preside and regulate the Proceedings at such Meeting : 10
 5. At any such Meeting as aforesaid any qualified Person may be proposed by any Elector, and seconded by any other Elector :
 6. If more qualified Candidates are proposed than the Numbers to be elected, a Poll may be demanded ; but if not, or if no Poll is demanded, or if the Demand for a Poll is withdrawn, or if a Poll is rendered 15
unnecessary by the Withdrawal of One or more of the Candidates, the Declaration of the Chairman that the Candidates are elected Members of the School Committee shall be conclusive Evidence of the Fact :
 7. If a Poll is demanded, the Chairman shall adjourn the Meeting to such Day, not less than *Two* nor more than *Four* Weeks afterwards, as 20
he thinks sufficient Time for the convenient taking of the Poll in the meantime :
 8. The Poll and subsequent Proceedings shall be conducted in manner provided by the Second Part of this Schedule :
 9. If from any Cause no Election is made, then— 25
 - (a) In the Case of the First Election, the Meeting shall stand adjourned to the same Day in the ensuing Week, and so from Time to Time until an Election is made :
 - (b) In the Case of an Annual Election, the retiring Members shall be deemed to be re-elected ; or if there are no retiring Members, or 30
the retiring Members or any of them refuse to serve, the School Committee shall elect a duly qualified Person to fill each Vacancy :
 10. If an insufficient Number of Members are elected, those who are elected, together with the continuing Members of the School Committee (if any), shall elect a duly qualified Person to fill each Vacancy : 35
 11. Notice of the Election of a Person to be a Member of the School Committee shall be sent to that Person by the Chairman of the Meeting of which he is elected ; in the Case of the First Election, such Notice shall be accompanied by a Summons to attend the First Meeting of the School Committee at the Time fixed by this Act : 40
 12. The Chairman of the School Committee shall at some Meeting, as soon as conveniently may be after the First Election, divide the Members of the Committee by Ballot into Three Classes, each Class to be equal in Number ; the Offices of the First Class shall be vacated on the Ninth of November which happens during the First Twelve Months 45
after the Day of their Election ; the Offices of the Second Class shall be vacated on the Ninth of November which happens during the Second Twelve Months after such Day as aforesaid ; and the Offices of the Third Class shall be vacated on the Ninth of November which happens during the Third Twelve Months after such Day as aforesaid ; 50
the

the Offices of retiring Members shall be filled by an equal Number of newly elected Members :

13. Retiring Members shall retire from Office on the *Ninth* of November in each Year :
- 5 14. Members chosen to fill the Offices of retiring Members shall come into Office on the Ninth of November, and shall hold Office for Three Years only :
15. Any Person who ceases to be a Member of the School Committee shall, if otherwise duly qualified, be re-eligible :
- 10 16. A Member of the School Committee may resign on giving to the Committee One Month's previous Notice in Writing of his Intention so to do :
17. If a Member of the School Committee absents himself during Six successive Months from all Meetings of the Board, except from temporary Illness or other Cause to be approved by the Board, or is adjudged bankrupt, or enters into a Composition or Arrangement with his Creditors, or ceases to be qualified as required by this Act, such Person shall cease to be a Member of the School Committee, and his Office shall thereupon be vacant :
- 15 18. If any casual Vacancy in Office occurs by Death, Resignation, Disqualification, or otherwise, the School Committee may elect some properly qualified Person to fill up the Vacancy :
- 20 19. The Member chosen to fill up a casual Vacancy shall retain his Office so long only as the vacating Member would have retained the same if no Vacancy had occurred :
- 25 20. If the Number of the Committee is reduced by a Resolution passed under the Provisions of this Act, the Chairman shall at some Meeting, as soon as may be after the passing of such Resolution, determine by Ballot on the Members who shall retire, so as to reduce the Number of the Committee to the Number fixed by the Resolution.
- 30

Form of Voting Paper for Adoption of Act.

THE EDUCATION ACT, 1867.

Voting Paper for the Borough [*or Town or Union*] of _____ in the County of _____

35

Answer.

Are you in favour of adopting the Education Act, 1867?

Do you wish the number of the Committee to be 6, 9, or 12?

40

(Signed)

Name _____

Address of Property }
qualifying to vote { _____

[111.]

D 4

Directions

Directions to Voter.

The Voter's Answer to the Question must be written in the Column headed "Answer," either "Yes" or "No" being put to the First Question, and the Number he approves of to the Second Question, or his Opinion on the Questions must otherwise be signified.

5

The Voter must sign the Paper, with the Situation of the Property which qualifies him to vote. If he makes his Mark, it must be attested by a Witness.

The Voter may deliver the Paper open or in an Envelope to any of the Persons named below at the Places there mentioned.

10

The Vote will be lost if the Paper is not filled up and signed, or if there is no Witness to the Voter's Mark, or if the Voter does not personally deliver the Paper to One of the Persons named below [before o'Clock in the Afternoon] on the of 18 .

The Voting Paper may be returned to any of the following Persons at the Places named below.

15

- A.B. at 16, Broad Street, Birmingham ; or
- C.D. at 26, High Street, Birmingham.

Form of Voting Paper for Election of Committee.

VOTING PAPER.

20

Election of Members of the School Committee for the District of to serve for Three Years from the 9th of November 18 .

Initials of the Voter against the Names of the Persons for whom the Vote is intended to be given.	Names of the Persons nominated as Members.	Residence of Persons nominated.	Quality or Calling of the Persons nominated.

25

30

I vote for the Persons in the above List against whose Names my Initials are placed as above.

(Signed)

Name

35

Profession, Trade, or }
Calling of the Voter }

Property which qualifies to vote

Date

Directions

Directions to the Voter.

The Voter is entitled to vote for _____ Members and no more.

The Voter's Initials must be placed against the Name of every Person for whom he votes, and he must sign this Paper, and the Date and the Situation
5 of the Property which gives the Qualification to vote must be added.

If the Voter makes his Mark, the Mark must be attested by a Witness. *

The Voter may deliver the Paper open or in an Envelope to any of the Persons named below, at the Places there mentioned.

The Vote will be lost if the List be returned with the Initials of the Voter
10 placed against more than _____ Names, or if the Voting Paper be not signed by the Voter, or if there is no Witness to the Voter's Mark, or if the Voter does not [personally deliver the Paper to One of the Persons named below [before _____ o'Clock in the Afternoon] on the of _____ 18 .

15 The Voting Paper may be returned to any of the following Persons at the Places mentioned below :

A.B., at the District School, Barchester.

C.D., at Faredrop.

THIRD SCHEDULE.

20 *Proceedings of School Committees.*

1. The Committee shall meet for the Despatch of Business, and shall from Time to Time make such Regulations with respect to the summoning, Notice, Place, Management, and Adjournment of such Meetings, and generally with respect to the Transaction and Management of Business, including the Quorum
25 at Meetings of the Committee, as they think fit, subject to the following Conditions :—

- (a) The First Meeting shall be held on the Third Thursday after the Election of the Committee, and if not held on that Day shall be held on some Day to be fixed by Her Majesty in Council :
- 30 (b) Not less than One Ordinary Meeting shall be held in each Month ; One Meeting shall be held as soon as possible after every annual Retirement of Members :
- (c) An Extraordinary Meeting may be summoned at any Time on the Requisition of Three Members of the Committee, addressed to the
35 Chief Clerk of the Committee :
- (d) The Quorum to be fixed by the Committee shall consist of not less than Three Members :
- (e) All Questions shall be decided by a Majority of Votes of the Members present and voting on that Question :
- 40 (f) The Names of the Members present, as well as of those voting upon each Question, shall be recorded :

[111.]

E

(g) No

(g) No Business involving the Admission of a School into Union, or the Exclusion of a School from Union, or any new Expense, or any Payment (except the ordinary Quarterly Payments to the Officers of the Committee and to Schools), shall be transacted unless Notice in Writing of such Business has been sent to every Member of the Committee *Seven Days* at least before the Meeting. 5

2. The Committee shall, at their First Meeting, and afterwards from Time to Time at their First Meeting after each annual Retirement of Members of the Committee, appoint One of their Members to be Chairman and One other of their Members to be a Vice-Chairman for the Twelve Months following such Choice. 10

3. If any casual Vacancy occurs in the Office of Chairman or Vice-Chairman, the Committee shall, as soon as they conveniently can after the Occurrence of such Vacancy, choose One of their Members to fill such Vacancy; and every such Chairman or Vice-Chairman so elected as last aforesaid shall continue in Office so long only as the Person in whose Place he may be so elected would have been entitled to continue if such Vacancy had not happened. 15

4. If at any Meeting the Chairman is not present at the Time appointed for holding the same, the Vice-Chairman shall be the Chairman of the Meeting; and if neither the Chairman nor Vice-Chairman shall be present, then the Members present shall choose some one of their Number to be Chairman of such Meeting. 20

5. In case of an Equality of Votes at any Meeting, the Chairman for the Time being of such Meeting shall have a Second or Casting Vote.

6. All Orders of the Committee for Payment of Money, and all Precepts issued by the Committee, shall be deemed to be duly executed if signed by Two or more Members of the Committee authorized to sign them by a Resolution of the Committee, and countersigned by the Chief Clerk; but in any legal Proceeding it shall be presumed, until the contrary is proved, that the Members signing any such Order or Precept were authorized to sign them. 25 30

7. The Appointment of any Officer of the Committee may be made by a Minute of the Committee, signed by the Chairman of the Committee, and countersigned by the Chief Clerk (if any) of the Committee, and any Appointment so made shall be as valid as if it were made under the Seal of the Committee. 35

8. Precepts of the Committee may be in the Form given at the End of this Schedule. 40

Proceedings of Managers appointed by a School Committee.

The Managers may elect a Chairman of their Meetings. If no such Chairman is elected, or if the Chairman elected is not present at the Time appointed for holding the same, the Members present shall choose One of their Number to be Chairman of such Meeting. The Managers may meet and adjourn as they think proper. The Quorum of the Managers shall consist of such Number of Members as may be prescribed by the School Committee that appointed them, or, if no Number be prescribed, of Three Members. Every Question at a Meeting shall be determined by a Majority of Votes of the Members 45

Members present and voting on that Question; and in case of an equal Division of Votes, the Chairman shall have a Second or Casting Vote.

The Proceedings of the Managers shall not be invalidated by any Vacancy or Vacancies amongst their Members.

5

Form of Precept.

School District of _____ to wit _____ To the Town Council
 [or Local Board, or Guardians, &c.] of the Borough [or Town or Union, &c.]
 of _____. These are to require you, the Town Council [or Local
 Board, or Guardians, &c.] of the Borough [or Town, or Union, &c.] of
 10 _____, from and out of the Monies in the Hands of your
 Treasurer, to pay on or before the _____ Day of _____ into the Hands of
 A.B., Treasurer of the School Committee of the said District, the Sum of
 _____ being the Amount required for the Expenses of the said School
 Committee up to the _____ of _____ 18 _____. [And of this Amount
 15 Pounds is to be charged exclusively to the Parish of _____.]

(Signed) C.D., } Members of the School Committee
 E.F. } of the District of _____

G.H., Chief Clerk of the said School Committee.

FIFTH SCHEDULE.

Form of Abstract of Register.

Abstract of the Register of Attendance at the United [or District] School
at in the School District of for the
5 Quarter ending the of 18 .

BOYS ABOVE SIX.			
Name.	Place of Abode.	No. of Weeks' Attendance.	Sum due.
GIRLS ABOVE SIX.			
10	CHILDREN UNDER SIX.		

The above is correct.
(Signed) A.B., Principal Teacher of the above School.

We, the undersigned, being a Quorum of the Persons legally entitled to
manage the above-mentioned School, do hereby certify that all the Conditions
15 and Regulations prescribed by "The Education Act, 1867," and all the
Conditions and Regulations required by the School Committee to be observed,
have been strictly observed in our School during the last Quarter,
and that the Attendance and Admission Registers of our School have been
correctly kept, and that the Statements in the Three First of the above
20 Columns form a correct Abstract from the said Registers, and we claim the
Sums stated in the Fourth of the above Columns. [And we also claim
Pounds for Examination of Scholars.]

(Signed) A.B. } A Quorum of the [Managers
C.D. } or other Title] of the above-
E.F. } mentioned School.
25

Education of the Poor.

A

BILL

To provide for the Education of the
Poorer Classes in England and Wales.

(Prepared and brought in by
Mr. Bruce, Mr. William Edward Forster, and
Mr. Algernon Egerton.)

*Ordered, by The House of Commons, to be Printed,
5 April 1867.*

[Bill 111.]

Under 5 oz.

Libel Bill.

[AS AMENDED IN COMMITTEE.]

ARRANGEMENT OF CLAUSES.

Preamble.

PART I.

As to Proceedings at Public Meetings.

Clauses.

1. No Proprietor of Newspaper shall be liable to an Action or Prosecution for a faithful Report of the Proceedings at a Public Meeting.
2. Unless he shall refuse to publish a fair Reply to the Libel complained of, such Reply not itself involving libellous Matter on any other Person.
3. A Speaker of Defamatory Matter not amounting to Slander shall in certain Cases be liable to be sued for Libel.
4. The Privilege of Parliament or other Public Bodies, or of any Person, not be affected.

PART II.

As to Actions for Libel.

5. In Actions for Libel the Defendant may pay Money into Court in discharge of the Action.
6. As to Costs when the Damages in an Action of Libel do not exceed Forty Shillings.

PART III.

As to Prosecutions for Libel.

7. To entitle a private Prosecutor to send up an Indictment for Libel he must first go before a Justice and enter into a Recognizance to prosecute and pay Costs.
8. In certain Cases the Defendant shall be discharged from such Indictment, and shall get his Costs.
9. Two previous Sections not to apply to an Indictment for a Libel published to extort.
10. The Defendant at the Trial of an Indictment or Information for Libel may be a Witness, and so also may be the Defendant's Wife or Husband.

[Bill 112.]

A

PART

PART IV.

As to Pleadings in case of Libel.

Clauses.

11. The Truth of a Libel may be pleaded in a short Form.
12. When so pleaded the Plaintiff may get a Bill of Particulars of what is intended to be relied upon by the Defendant.

PART V.

General Provisions.

13. Meaning of the Words "Public Newspaper."
 14. Act not to affect pending Proceedings.
 15. Act not to extend to Scotland.
 16. Title of Act.
-



A

B I L L

[AS AMENDED IN COMMITTEE]

TO

Amend the Law of Libel.

WHEREAS it is expedient to amend the Law of Libel: Be Preamble.
 it enacted by the Queen's most Excellent Majesty, by
 and with the Advice and Consent of the Lords Spiritual
 and Temporal, and Commons, in this present Parliament assembled,
 5 and by the Authority of the same, as follows:

PART I.

As to Proceedings at Public Meetings.

1. In any Action or Prosecution for an alleged Libel in any Public Newspaper, Proof that the alleged Libel was a true and
 10 fair Report of the Proceedings at a Meeting lawfully assembled for a lawful Purpose, open to Reporters, and at which Reporters were present, for the Purpose of reporting such Proceedings for the Public Newspapers, and that the Report was published in any such Newspaper *bonâ fide* without actual Malice and in the
 15 ordinary Course of Business, shall amount to a Defence, and such Proof may in all Cases be given by the Defendant under the general Plea of Not Guilty "by Statute."

No Proprietor of Newspaper shall be liable to an Action or Prosecution for a faithful Report of the Proceedings at a Public Meeting.

[Bill 112.]

A 2

2. Pro-

Unless he shall refuse to publish a fair Reply to the Libel complained of, such Reply not involving libellous Matter on any other Person.

2. Provided always, That such Defence shall not be valid if it shall be proved that the Defendant declined or omitted, when required so to do, to publish in his Newspaper, and in a Mode as conspicuous as that in which the said alleged Libel was published, an Explanation or Contradiction of the alleged Libel, of not unreasonable Length, immediately after such Contradiction or Explanation shall have been furnished to the Defendant by or on behalf of the Plaintiff or Prosecutor; but no Defendant shall be bound to publish such Explanation or Contradiction if it shall contain libellous Matter, unless or until such libellous Matter shall be expunged upon Notice in Writing thereof being given to such Plaintiff or Prosecutor by the Defendant.

A Speaker of Defamatory Matter not amounting to Slander shall in certain Cases be liable to be sued for Libel.

3. If any Person shall at any such Meeting as aforesaid speak any Defamatory Matter reflecting upon the Character or Circumstances of another, which shall afterwards be published in any Public Newspaper, and which, if written and published, would amount to a Libel, and such Person shall, upon Application in Writing made to him by the Person defamed, refuse or neglect forthwith to publish in some Public Newspaper, circulating in the Part of the Country in which such Meeting shall have been held, a full Apology for having so spoken such defamatory Matter, it shall be lawful for the Person defamed to proceed by Action for Libel against the Person who shall have so spoken such Defamatory Matter, and in such Action the Proceedings shall be in all respects the same as if such defamatory Matter had been written and published by the Person who shall have so spoken the same.

The Privilege of Parliament or other Public Bodies, or of any Person, not to be affected.

4. Nothing herein contained shall be deemed or taken, held, or construed, directly or indirectly, by Interpretation or otherwise, to affect the Privilege of Parliament or of Courts of Justice, or of any other Public Body, or of any Person, entitled to Privilege, in any way whatever.

PART II.

As to Actions for Libel.

In Actions for Libel the Defendant may pay Money into Court in discharge of the Action.

5. In Actions for Libel the Defendant shall be at liberty to pay into Court a Sum of Money by way of Amends for the Injury sustained by the Publication of such Libel, and such Payment into Court shall be of the same Effect, and available in the same Manner and to the same Extent, and shall be subject to the same Rules and Regulations, as Payment of Money into Court is now available and subjected to in other Personal Actions.

6. In

6. In all Actions for Libel, where the Jury shall give Damages under *Forty* Shillings, the Plaintiff shall not be entitled to more Costs than Damages; unless the Judge before whom such Verdict shall be obtained shall immediately afterwards certify on the Back of the Record that the Libel was wilful and malicious.

As to Costs when the Damages in an Action of Libel do not exceed *Forty* Shillings.

PART III.

As to Prosecutions for Libel.

7. It shall not be lawful for a Private Prosecutor to prefer an Indictment for the Publication of a Defamatory Libel against any Person who shall not have been, previously to the said Indictment being preferred, bound by Recognizance or committed to Custody to answer the Charge stated in the said Indictment; and no Person shall be bound by Recognizance or committed to Custody to answer any Indictment for a Libel at the Suit of a Private Prosecutor, by any Justice or Justices of the Peace, unless such Prosecutor shall enter into a Recognizance before him or them, and which Recognizance the said Justice or Justices is and are hereby empowered to take, with Two solvent Sureties in such Sum as to the said Justice or Justices shall seem fit, that he will prefer an Indictment, and effectually prosecute the same, if it shall be thereafter found by a Grand Jury, and pay such Costs, if any, as shall be payable by him in respect of the same.

To entitle a private Prosecutor to send up an Indictment for Libel he must first go before a Justice and enter into a Recognizance to prosecute.

8. In case any Person against whom such Indictment shall be found shall appear and plead to the same, and the Prosecutor of such Indictment shall not within *One* whole Year next after Plea pleaded, or within such further Time as may be granted by any Court before which the Case is pending or may come on for Trial, procure the same to be tried, or if upon such Trial the Defendant shall be acquitted, or in case the Prosecutor shall procure a *Nolle prosequi* to be entered on such Indictment, then in any of such Cases the Defendant shall be discharged from all further Proceedings in respect of the alleged Libel charged in such Indictment, and shall be entitled to receive from such Prosecutor the Costs sustained by him by reason of said Indictment, unless the Judge before whom the Indictment shall be tried shall, immediately after the Verdict thereon, certify on the Back of the Record that the Prosecutor had reasonable Cause for preferring such Indictment; and for the Recovery of his Costs the Defendant shall be entitled to the Benefit of the Recognizance entered into as aforesaid by the Prosecutor and shall have all the Remedies that may be necessary to enforce the same.

In certain Cases the Defendant shall be discharged from such Indictment, and shall get his Costs.

9. Nothing in the last Two Sections contained shall apply to an Indictment by a Private Prosecutor for the Publication of any

Two previous Sections not to apply

to an Indictment for a Libel published to extort.

Defamatory Libel published with Intent to extort any Money or Security for Money or any valuable Thing from such private Prosecutor or any other Person, or with Intent to induce such Private Prosecutor or any other Person to confer or procure for any Person any Appointment or Office of Profit or Trust.

5

The Defendant at the Trial of an Indictment or Information for Libel may be a Witness, and so also may be the Defendant's Wife or Husband.

10. On the Trial of any Indictment or Information for a Defamatory Libel the Defendant shall be competent to give Evidence on his or her Behalf, and the Husband or Wife of such Defendant shall also be competent to give Evidence on behalf of the Defendant.

10

PART IV.

As to Pleadings in case of Libel.

The Truth of a Libel may be pleaded in a short Form.

11. In all Cases, Civil or Criminal, where a Defendant is or shall be allowed to plead the Truth of the Matters charged in the Defamatory Libel as a Justification or Defence, or Part of a Defence, it shall 15 be sufficient for the Defendant to plead that the said alleged Libel is true in Substance and Matter of Fact, either alone or with such other Averments as is now or may hereafter be by Law required to be added to constitute a Defence to any Proceedings, Civil or Criminal, and to this Plea the Plaintiff or Prosecutor shall be at 20 liberty to reply generally.

When so pleaded the Plaintiff may get a Bill of Particulars of what is intended to be relied upon by the Defendant.

12. When a Defendant shall plead the Truth of the Libel in the Form allowed by this Act, a Court or a Judge may, if they or he shall so think fit, on the Application of the Plaintiff, order the Defendant to give a Bill of Particulars of the Facts, Circumstances, or Acts on 25 which he intends to rely in proof of his Plea, and on the Trial the Defendant shall not be at liberty to prove other Facts, Circumstances, or Acts than those mentioned in his Bill of Particulars.

PART V.

General Provisions.

30

Meaning of the Words "Public Newspaper."

13. The Words "Public Newspaper" in this Act shall be construed to mean any Newspaper duly registered at the Stamp Office in Westminster or Dublin, and none other.

Act not to affect pending Proceedings.

14. Nothing herein contained shall affect any Action or Prosecution which shall have been commenced before and shall be actually 35 pending at the Time of the passing of this Act.

15. This

15. This Act shall not extend to Scotland.

Act not to
extend to
Scotland.

16. For all Purposes this Act may be cited as “The Libel Act, 1867.”

Title of Act.

Libel.

A

BILL

[AS AMENDED IN COMMITTEE]

To amend the Law of Libel.

(Prepared and brought in by
Sir Colman O'Loghlen and Mr. Baines.)

*Ordered, by The House of Commons, to be Printed,
8 April 1867.*

[Bill 112.]

Under 1 oz.



A

B I L L

TO

Simplify and lessen the Expense of the Execution
of Deeds by married Women, and to amend the
Law as regards the Effect of Deeds executed
under Powers of Attorney.

WHEREAS under and by virtue of an Act passed in the Preamble.
Third and Fourth Years of the Reign of His late Ma-
jesty King William the Fourth, intituled "An Act for the 3 & 4 W. 4.

"Abolition of Fines and Recoveries, and for the Substitution of c. 74.

- 5 "more simple Modes of Assurance," a married Woman is enabled,
with her Husband's Concurrence, to dispose by Deed of Lands, and
of Money subject to be invested in the Purchase of Lands, and also
to dispose of, release, surrender, or extinguish any Estate which
she alone, or she and her Husband in her Right, may have in any
10 Lands or any such Money, and also to release or extinguish any
Power vested in her in regard to any Lands or any such Money
as aforesaid, or in regard to any Estate in any Lands or in any such
Money as aforesaid, as fully and effectually as she could do if she
were a Feme Sole, save and except that no such Disposition is
15 valid and effectual unless the Deed to be executed by her be pro-
duced and acknowledged before a Judge of One of the Superior
Courts at Westminster, or before a Master in Chancery, or before

[Bill 26.]

A

Two

Two Perpetual Commissioners or Two Special Commissioners to be appointed under the Provisions of the said Act; and the Person or Persons taking the Acknowledgment are to make and return to the Court of Common Pleas a Certificate of the Acknowledgment, which is to be filed in the said Court; and various Forms and Regulations prescribed by the said Act and by the said Court of Common Pleas have to be complied with, to make such Disposition and Acknowledgment effectual :

17 & 18 Vict.
c. 75.

And whereas by another Act, passed in the Seventeenth and Eighteenth Years of the Reign of Her present Majesty, further Provisions were made with regard to the Acknowledgment of Deeds by married Women :

20 & 21 Vict.
c. 57.

And whereas by another Act, passed in the Twentieth and Twenty-first Years of the Reign of Her present Majesty, married Women are enabled to dispose by Deed of certain reversionary Interests in Personal Estate, and to release Powers over such Estate, and also their Rights to a Settlement out of such Estate, but so that every Deed to be executed by a married Woman for any of the Purposes of that Act shall be acknowledged by her, and be otherwise perfected, in the Manner prescribed by the said first-mentioned Act :

And whereas it is desirable to simplify and lessen the Expense of the Execution of Deeds by married Women, and it is also desirable to amend the Law as regards the Effect of Deeds executed under Powers of Attorney :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

From 31st
Oct. 1867,
Provisions in
said recited
Acts as to
Acknow-
ledgment of
Deeds by
married
Women
repealed.

1. That from and after the *Thirty-first Day of October One thousand eight hundred and sixty-seven*, all the Provisions contained in the said Three several Acts herein-before mentioned, or any or either of them, with regard to the Acknowledgment of Deeds by married Women before a Judge of One of the Superior Courts at Westminster, or a Master in Chancery, or before Two of the Perpetual Commissioners or Two Special Commissioners appointed as in the said first-mentioned Act is provided, and the filing and Completion of the Certificate of such Acknowledgment, or otherwise in relation thereto, shall be and the same are hereby repealed.

Saving as to
Acknow-
ledgment
taken before
that Day
where Pro-
ceedings not
then com-
pleted.

2. Provided always, That all the Powers and Provisions of the said Acts, or any or either of them, shall remain in full Force and Effect with regard to any Acknowledgment by a married Woman which may have been taken on or before the said *Thirty-first Day of October One thousand eight hundred and sixty-seven*, but the Proceedings

Execution of Deeds.

Proceedings with regard to which shall not be completed on that Day.

3. From and after the *Thirty-first Day of October One thousand eight hundred and sixty-seven* every Deed to be executed by a married Woman, and which by the said Acts or any of them is required to be acknowledged, shall be valid and effectual if produced and acknowledged by her as her Act and Deed before a Judge of One of the Superior Courts at Westminster, or before any Perpetual Commissioner heretofore appointed under the Provisions of the first-mentioned Act, or before any Commissioner to administer Oaths in Chancery in England, or any London Commissioner to administer Oaths in Chancery, or a Special Commissioner to be appointed as herein-after provided, and if the Provisions contained in the said Acts for giving Validity to Deeds executed by married Women (except such of them as relate to Acknowledgment) be observed and complied with.

Mode of
executing
Deeds by
married
Women after
31st Oct.
1867.

4. In every Case where, by reason of Residence beyond Seas, or ill Health, or any other sufficient Cause, any married Woman shall be prevented from making the Acknowledgment required by this Act before a Judge or any such Commissioner as aforesaid, it shall be lawful for the Court of Common Pleas at Westminster, or any Judge of that Court, to issue a Commission specially appointing any Person therein named to be a Commissioner to take the Acknowledgment by any married Woman, to be therein named, of any such Deed as aforesaid: Provided always, that every such Commission shall be made returnable within such Time, to be therein expressed, as the said Court or Judge shall think fit, and shall be in the Form or to the Effect set forth in the Schedule hereto.

Where
married
Woman
resident
abroad or in
ill Health,
a Special
Commis-
sioner to be
appointed.

5. No Commissioner taking any Acknowledgment under this Act shall be a Person who is in any Manner interested in the Transaction giving Occasion for such Acknowledgment, or concerned therein as Attorney, Solicitor, or Agent, or as Clerk to any Attorney, Solicitor, or Agent so interested or concerned.

Commis-
sioner not
to be Party
interested.

6. Every such Judge or Commissioner, before taking the Acknowledgment by any married Woman of any Deed by which any Disposition, Release, Surrender, or Extinguishment shall be made by her under the said recited Acts or any of them, shall examine her apart from her Husband touching her Knowledge of such Deed, and shall ascertain whether she freely and voluntarily consents to such Deed, and unless she freely and voluntarily consents to such Deed he shall not accept such Acknowledgment by her.

The Judge
or Commis-
sioner, be-
fore taking
Acknow-
ledgment,
to examine
married
Woman
apart from
her Hus-
band.

Judge or
Commis-
sioner
taking Ac-
knowledg-
ment to sign
Memoran-
dum of same
on Deed.

7. When a married Woman shall acknowledge any such Deed as aforesaid, the Judge or Commissioner taking such Acknowledgment shall sign a Memorandum, to be indorsed on or written at the Foot or in the Margin of such Deed in the Form set forth in the Schedule hereto; and such Memorandum, when so signed, shall 5 be conclusive Evidence of such Acknowledgment, and that all the Provisions of this Act in relation thereto were duly observed and complied with.

Fee to be
taken by
Commis-
sioner.

8. Every such Commissioner shall be entitled to charge and take for the Examination of every married Woman and her Acknow- 10 ledgment of any such Deed, and for the Memorandum to be signed as aforesaid by such Commissioner, and for his Signature thereto, a Fee not exceeding *Ten Shillings*.

Deed exe-
cuted under
special
Power of
Attorney to
be valid,
notwith-
standing
Death of
Person ap-
pointing
Attorney.

9. When any Deed shall be executed, under a Power or Letter of Attorney, by an Attorney specially appointed for the Purpose of 15 executing such Deed, or for carrying out the special Transaction giving occasion for such Deed, such Execution shall be valid and effectual to all Intents and Purposes, although the Person appointing such Attorney may have died in the Interval between the Execution of the Power or Letter of Attorney and the Execution 20 of such Deed.

SCHEDULE.

SPECIAL COMMISSION.

I One of the Justices of Her Majesty's
Court of Common Pleas at Westminster, do, by virtue of the
5 Statute in that Case made and provided, appoint
Special Commissioner to take the Acknowledgment of
the Wife of now residing at of any
Deed by which it is intended that any Disposition, Release, Surren-
der, or Extinguishment shall be made by her the said
10 as a married Woman, pursuant to the Statute 3 & 4 Will. 4. c. 74.
or pursuant to the Statute 20 & 21 Vict. c. 57., or under the Pro-
visions of the Statute 30 & 31 Vict. c. [*this Act*]: And I do order
and direct that this Commission shall be executed and returned to
the proper Office of this Court on or before the
15 Day of 18 .

MEMORANDUM OF ACKNOWLEDGMENT.

This Deed was this Day produced before me, and acknowledged by therein named to be her Act and Deed,
20 previous to which Acknowledgment the said was
examined by me separately and apart from her Husband, touching her Knowledge of the Contents of this Deed, and her Consent thereto, and declared the same to be freely and voluntarily executed by her.

To be signed by
Judge, Commissioner, or Special
Commissioner, as the Case may be.

Execution of Deeds.

A

BILL

To simplify and lessen the Expense of the Execution of Deeds by married Women, and to amend the Law as regards the Effect of Deeds executed under Powers of Attorney.

(Prepared and brought in by
Mr. Goldney, Mr. Leeman, and Mr. Powell.)

*Ordered, by The House of Commons, to be Printed,
15 February 1867.*

[Bill 26.]

Under 1 oz.



A

B I L L

[AS AMENDED IN COMMITTEE]

TO

Simplify and lessen the Expense of the Execution
of Deeds by married Women, and to amend the
Law as regards the Effect of Deeds executed
under Powers of Attorney.

WHEREAS under and by virtue of an Act passed in the Preamble.
Third and Fourth Years of the Reign of His late Ma-
jesty King William the Fourth, intituled “An Act for the 3 & 4 W. 4.
“ Abolition of Fines and Recoveries, and for the Substitution of c. 74.
5 “ more simple Modes of Assurance,” a married Woman is enabled,
with her Husband’s Concurrence, to dispose by Deed of Lands, and
of Money subject to be invested in the Purchase of Lands, and also
to dispose of, release, surrender, or extinguish any Estate which
she alone, or she and her Husband in her Right, may have in any
10 Lands or any such Money, and also to release or extinguish any
Power vested in her in regard to any Lands or any such Money
as aforesaid, or in regard to any Estate in any Lands or in any such
Money as aforesaid, as fully and effectually as she could do if she
were a Feme Sole, save and except that no such Disposition is
15 valid and effectual unless the Deed to be executed by her be pro-
duced and acknowledged before a Judge of One of the Superior
Courts at Westminster, or before a Master in Chancery, or before
[Bill 138.] A Two

Two Perpetual Commissioners or Two Special Commissioners to be appointed under the Provisions of the said Act; and the Person or Persons taking the Acknowledgment are to make and return to the Court of Common Pleas a Certificate of the Acknowledgment, which is to be filed in the said Court; and various Forms and Regulations prescribed by the said Act and by the said Court of Common Pleas have to be complied with, to make such Disposition and Acknowledgment effectual :

17 & 18 Vict.
c. 75. And whereas by another Act, passed in the Seventeenth and Eighteenth Years of the Reign of Her present Majesty, further Provisions were made with regard to the Acknowledgment of Deeds by married Women :

20 & 21 Vict.
c. 57. And whereas by another Act, passed in the Twentieth and Twenty-first Years of the Reign of Her present Majesty, married Women are enabled to dispose by Deed of certain reversionary Interests in Personal Estate, and to release Powers over such Estate, and also their Rights to a Settlement out of such Estate, but so that every Deed to be executed by a married Woman for any of the Purposes of that Act shall be acknowledged by her, and be otherwise perfected, in the Manner prescribed by the said first-mentioned Act :

And whereas it is desirable to simplify and lessen the Expense of the Execution of Deeds by married Women, and it is also desirable to amend the Law as regards the Effect of Deeds executed under Powers of Attorney :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

From 31st
Oct. 1867,
Provisions in
said recited
Acts as to
Acknow-
ledgment of
Deeds by
married
Women
repealed.

1. That from and after the Thirty-first Day of October One thousand eight hundred and sixty-seven, all the Provisions contained in the said Three several Acts herein-before mentioned, or any or either of them, with regard to the Acknowledgment of Deeds by married Women before a Judge of One of the Superior Courts at Westminster, or a Master in Chancery, or before Two of the Perpetual Commissioners or Two Special Commissioners appointed as in the said first-mentioned Act is provided, and the filing and Completion of the Certificate of such Acknowledgment, or otherwise in relation thereto, shall be and the same are hereby repealed.

Saving as to
Acknow-
ledgment
taken before
that Day
where Pro-
ceedings not
then com-
pleted.

2. Provided always, That all the Powers and Provisions of the said Acts, or any or either of them, shall remain in full Force and Effect with regard to any Acknowledgment by a married Woman which may have been taken on or before the said Thirty-first Day of October One thousand eight hundred and sixty-seven, but the

Proceedings

Proceedings with regard to which shall not be completed on that Day.

3. From and after the Thirty-first Day of October One thousand eight hundred and sixty-seven every Deed to be executed by a married Woman, and which by the said Acts or any of them is required to be acknowledged, shall be valid and effectual if produced and acknowledged by her as her Act and Deed before a Judge of One of the Superior Courts at Westminster, or before any Perpetual Commissioner appointed under the Provisions of the first-mentioned Act, or a Special Commissioner to be appointed as herein-after provided, and if the Provisions contained in the said Acts for giving Validity to Deeds executed by married Women (except such of them as relate to Acknowledgment) be observed and complied with.

Mode of
executing
Deeds by
married
Women after
31st Oct.
1867.

4. In every Case where, by reason of Residence beyond Seas, or ill Health, or any other sufficient Cause, any married Woman shall be prevented from making the Acknowledgment required by this Act before a Judge or any such Commissioner as aforesaid, it shall be lawful for the Court of Common Pleas at Westminster, or any Judge of that Court, to issue a Commission specially appointing any Person therein named to be a Commissioner to take the Acknowledgment by any married Woman, to be therein named, of any such Deed as aforesaid: Provided always, that every such Commission shall be made returnable within such Time, to be therein expressed, as the said Court or Judge shall think fit, and shall be in the Form or to the Effect set forth in the Schedule hereto.

Where
married
Woman
resident
abroad or in
ill Health,
a Special
Commis-
sioner to be
appointed.

5. No Commissioner taking any Acknowledgment under this Act shall be a Person who is in any Manner interested in the Transaction giving Occasion for such Acknowledgment, or concerned therein as Attorney, Solicitor, or Agent, or as Clerk to any Attorney, Solicitor, or Agent so interested or concerned.

Commis-
sioner not
to be Party
interested.

6. Every such Judge or Commissioner, before taking the Acknowledgment by any married Woman of any Deed by which any Disposition, Release, Surrender, or Extinguishment shall be made by her under the said recited Acts or any of them, shall examine her apart from her Husband touching her Knowledge of such Deed, and shall ascertain whether she freely and voluntarily consents to such Deed, and unless she freely and voluntarily consents to such Deed he shall not accept such Acknowledgment by her.

The Judge
or Commis-
sioner, be-
fore taking
Acknow-
ledgment,
to examine
married
Woman
apart from
her Hus-
band.

Judge or
Commissioner
taking Ac-
knowledg-
ment to sign
Memoran-
dum of same
on Deed.

7. When a married Woman shall acknowledge any such Deed as aforesaid, the Judge or Commissioner taking such Acknowledgment shall sign a Memorandum, to be indorsed on or written at the Foot or in the Margin of such Deed in the Form set forth in the Schedule hereto; and such Memorandum, when so signed, shall 5 be conclusive Evidence of such Acknowledgment, and that all the Provisions of this Act in relation thereto were duly observed and complied with.

Fee to be
taken by
Commis-
sioner.

8. Every such Commissioner shall be entitled to charge and take for the Examination of every married Woman and her Acknow- 10 ledgment of any such Deed, and for the Memorandum to be signed as aforesaid by such Commissioner, and for his Signature thereto, the same Fee as is now allowed by Law to each separate Commissioner on taking the Acknowledgment of a married 15 Woman.

Deed exe-
cuted under
special
Power of
Attorney to
be valid,
notwith-
standing
Death of
Person ap-
pointing
Attorney.

9. When any Deed shall be executed, under a Power or Letter of Attorney, by an Attorney specially appointed for the Purpose of executing such Deed, or for carrying out the special Transaction giving occasion for such Deed, such Execution shall not be in- 20 validated by reason of the Person appointing such Attorney having died in the Interval between the Execution of the Power or Letter of Attorney and the Execution of such Deed, provided the Power of Attorney be acted on within Six Months of its Date.

SPECIAL COMMISSION.

15 Day of 18 .

This Deed was this Day produced before me, and acknowledged by therein named to be her Act and Deed,
20 previous to which Acknowledgment the said was
examined by me separately and apart from her Husband, touching
her Knowledge of the Contents of this Deed, and her Consent
thereto, and declared the same to be freely and voluntarily executed
by her.

25 *To be signed by*
Judge, Commissioner, or Special
Commissioner, as the Case may be.

Execution of Deeds.

A

BILL

[AS AMENDED IN COMMITTEE]

To simplify and lessen the Expense of
the Execution of Deeds by married
Women, and to amend the Law as
regards the Effect of Deeds executed
under Powers of Attorney.

(Prepared and brought in by
Mr. Goldney, Mr. Leeman, and Mr. Powell.)

Ordered, by The House of Commons, to be Printed,
8 May 1867.

[Bill 138.]
Under 1 oz.



A

B I L L

TO

Continue various expiring Laws.

- W**HEREAS the several Acts mentioned in the First Column Preamble.
of the Schedule hereto are wholly, or as to certain Pro-
visions thereof, limited to expire at the Times specified
in respect of such Acts in the Fourth Column of the said Schedule :
5 And whereas it is expedient to continue such Acts, in so far as they
are temporary in their Duration, for the Times mentioned in respect
of such Acts respectively in the Fifth Column of the said Schedule :
Be it enacted by the Queen's most Excellent Majesty, by and
with the Advice and Consent of the Lords Spiritual and Temporal,
10 and Commons, in this present Parliament assembled, and by the
Authority of the same, as follows :
1. This Act may be cited for all Purposes as the "Expiring Laws Short Title:
Continuance Act, 1867."
 2. The Acts mentioned in Column One of the said Schedule, Continuance
15 and the Acts, if any, amending the same, shall, in so far as such of Acts in
Acts or any Provisions thereof are temporary in their Duration, be Schedule.
continued until the Times respectively specified in respect of such
Acts or Provisions in the Fifth Column of the said Schedule.

SCHEDULE.

1. Original Acts.	2. Amending Acts.	3. How far temporary.	4. Time of Expiration of temporary Provisions.	5. Continued until
(1) 2 & 3 Vict. c. 74. Oaths, unlawful (Ireland).	11 & 12 Vict. c. 89.	Whole Act -	7th July 1867, and End of then next Session. (25 & 26 Vict. c. 32.)	7th July 1868, and End of then next Session. 5
(2) 3 & 4 Vict. c. 89. Poor Rates, Stock in Trade Ex- emption.	- - -	Whole Act -	1st October 1867, and End of then next Ses- sion. (29 & 30 Vict. c. 102.)	1st October 1868, and End of then next Session. 10
(3) 4 & 5 Vict. c. 30. Survey of Great Britain.	19 & 20 Vict. c. 61.	Whole Act -	31st December 1867 - (29 & 30 Vict. c. 102.)	31st December 1869, 15 and End of then next Session.
(4) 4 & 5 Vict. c. 35. Copyhold, In- closure, and Tithe, Com- missioners.	14 & 15 Vict. c. 53.	So much as relates to the Appoint- ment of and the Period for holding Office by Commis- sioners and other Officers.	1st August 1867, and End of then next Ses- sion. (25 & 26 Vict. c. 73.)	1st August 1872, and End of then next 20 Session.
(5) 5 & 6 Vict. c. 123. Lunatic Asylums (Ireland).	- - -	Whole Act -	1st August 1867, and End of then next Ses- sion. (29 & 30 Vict. c. 102.)	1st August 1868, and End of then next 30 Session.
(6) 10 Vict. c. 32. Landed Property Improvement (Ireland).	13 & 14 Vict. c. 31.	As to Powers of Commissioners.	1st January 1867, and End of then next Ses- sion. (29 & 30 Vict. c. 102.)	1st January 1868, and End of then next 35 Session.
(7) 10 & 11 Vict. c. 90. Poor Laws (Ire- land).	14 & 15 Vict. c. 68.	As to Appoint- ment of Com- missioners.	23d July 1867, and End of then next Session. (29 & 30 Vict. c. 102.)	23d July 1868, and End of then next 40 Session.
(8) 10 & 11 Vict. c. 98. Ecclesiastical Jurisdiction.	- - -	As to Provisions continued by 21 & 22 Vict. c. 50.	1st of August 1867, and End of then next Ses- sion. (28 & 29 Vict. c. 119.)	1st August 1868, and End of then next 45 Session.
(9) 11 & 12 Vict. c. 32. County Cess (Ireland).	20 & 21 Vict. c. 7.	Whole Act -	1st August 1867, and End of then next Ses- sion. (29 & 30 Vict. c. 102.)	1st August 1868, and End of then next 50 Session.

Expiring Laws Continuance.

3

1.	2.	3.	4.	5.
Original Acts.	Amending Acts.	How far temporary.	Time of Expiration of temporary Provisions.	Continued until
5 (10) 11 & 12 Vict. c. 107. Sheep and Cattle diseased.	16 & 17 Vict. c. 62. 29 Vict. c. 4. 29 Vict. c. 15.	Whole Act -	1st August 1867, and End of then next Ses- sion. (29 & 30 Vict. c. 102.)	1st August 1868, and End of then next Session.
10 (11) 14 & 15 Vict. c. 104. Episcopal and Capitular Es- tates Manage- ment.	17 & 18 Vict. c. 116. 22 & 23 Vict. c. 46. 23 & 24 Vict. c. 124.	Whole Act -	1st January 1867, and End of then next Ses- sion. (29 & 30 Vict. c. 102.)	1st January 1868, and End of then next Session.
15 (12) 19 & 20 Vict. c. 36. Preservation of the Peace (Ire- land).	23 & 24 Vict. c. 138. 28 & 29 Vict. c. 118.	Whole Act -	1st July 1867, and End of then next Session. (29 & 30 Vict. c. 102.)	1st July 1868, and End of then next Session.
20 (13) 24 & 25 Vict. c. 109. Salmon Fishery (England) Act.	- - - 28 & 29 Vict. c. 121.	As to Appoint- ment of In- spectors, s. 31. As to Appoint- ment of the Spe- cial Commis- sioners for English Fisheries.	1st October 1867, and End of then next Ses- sion. (29 & 30 Vict. c. 102.)	1st October 1868, and End of then next Session.
30 (14) 26 & 27 Vict. c. 105. Promissory Notes.	- - -	Whole Act -	28th July 1867, and End of then next Session. (29 & 30 Vict. c. 102.)	28th July 1868, and End of then next Session.
35 (15) 26 & 27 Vict. c. 114. Salmon Fisheries (Ireland).	- - -	As to Duration of Office of the Special Commis- sioners for Irish Fisheries, and all Powers, Rights, and Privileges appertaining thereto.	28th July 1867, and End of then next Session. (29 & 30 Vict. c. 102.)	28th July 1868, and End of then next Session.
40 (16) 27 & 28 Vict. c. 20. Promissory Notes and Bills of Ex- change (Ire- land).	- - -	Whole Act -	13th May 1867, and End of then next Session. (29 & 30 Vict. c. 102.)	13th May 1868, and End of then next Session.
50 (17) 27 & 28 Vict. c. 92. Public Schools.	- - -	Whole Act -	1st August 1867 and End of then next Session. (29 & 30 Vict. c. 102.)	1st August 1868, and End of then next Session.
55 (18) 28 & 29 Vict. c. 46. Militia Ballots Suspension.	- - -	Whole Act -	1st October 1867 - (29 & 30 Vict. c. 102.)	1st October 1868, and End of then next Session.

Expiring Laws Continuance.

1. Original Acts.	2. Amending Acts.	3. How far temporary.	4. Time of Expiration of temporary Provisions.	5. Continued until
(19) 28 & 29 Vict. c. 74. War Department Tramways (Devon).	- - -	So much as relates to the Period during which the Powers of the Act may be exer- cised.	29th June 1868	29th June 1870, and End of then next Session.
(20) 28 & 29 Vict. c. 83. Locomotives on Roads.	- - -	Whole Act	1st September 1867	1st September 1868, and End of then next Session.
(21) 29 & 30 Vict. c. 121. (Extradition Treaties Act Amendment).	- - -	Whole Act	1st September 1867	1st September 1868, and End of then next Session.

Expiring Laws Continuance.

A

B I L L

To continue various expiring Laws.

(Prepared and brought in by
Mr. Hunt and Mr. Secretary Gathorne Hardy.)

*Ordered, by The House of Commons, to be Printed,
26 July 1867.*

[Bill 288.]

Under 1 oz.

